

September 16, 2010

**CASES**

No. 210  
Commodity Futures Trading  
Commission,  
Respondent,  
v.  
Stephen Walsh, et al.,  
Defendants,  
Janet Walsh,  
Appellant.

Certification of questions by the  
United States Court of Appeals for the  
Second Circuit, pursuant to section  
500.27 of this Court's Rules of  
Practice, accepted and the issues  
presented are to be considered after  
briefing and argument.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

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Securities and Exchange  
Commission,  
Respondent,  
v.  
WG Trading Investors, L.P., et  
al.,  
Defendants,  
Robin Greenwood,  
Relief Defendant,  
Janet Walsh,  
Appellant.

1 No. 207 SSM 40  
The People &c.,  
Respondent,  
v.  
Timoteo Ramirez,  
Appellant.

On review of submissions pursuant to  
section 500.11 of the Rules, order  
affirmed, in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

1 No. 206 SSM 35  
Roni LLC, et al.,  
Appellants,  
v.  
Rachel L. Arfa, et al.,  
Respondents.

On review of submissions pursuant to  
section 500.11 of the Rules, order  
affirmed, with costs, in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

**MOTIONS**

2 Mo. No. 2010-835  
Sophie Argueta, &c.,  
Appellant,  
et al.,  
Plaintiff,  
v.  
New York City Health & Hospitals  
Corporation (Coney Island  
Hospital),  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2010-1028  
The People &c.,  
Appellant,  
v.  
Dwight Ashe,  
Respondent.

Motion for assignment of counsel granted and Steven Banks, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the respondent on the appeal herein.

2 Mo. No. 2010-1027  
The People &c.,  
Respondent,  
v.  
Calvin Battles,  
Appellant.

Motion to vacate this Court's August 16, 2010 preclusion order granted.

3 Mo. No. 2010-810  
In the Matter of Richard  
Benedetto,  
Appellant,  
v.  
Thomas P. DiNapoli, &c., et al.,  
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

Mo. No. 2010-1087  
The People &c.,  
Appellant,  
v.  
Dragan Boscic,  
Respondent.

Motion by New York State Defenders Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

3                    Mo. No. 2010-696  
In the Matter of Josh Brown,  
                          Appellant,  
                          v.  
Brian Fischer et al.,  
                          Respondents.

Motion for reconsideration of this Court's May 4, 2010 dismissal order denied.

4                    Mo. No. 2010-1072  
The People &c.,  
                          Respondent,  
                          v.  
Jazzmone Brown,  
                          Appellant.

Motion for assignment of counsel granted and David C. Schopp, Esq., The Legal Aid Bureau of Buffalo, Inc., 237 Main Street, Suite 1602, Buffalo, NY 14203 assigned as counsel to the appellant on the appeal herein.

2                    Mo. No. 2010-768  
The People &c.,  
                          Respondent,  
                          v.  
Tyrone Burch,  
                          Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2010-1017  
The People &c.,  
                          Appellant,  
                          v.  
Dionis Collado,  
                          Respondent.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the respondent on the appeal herein.

1                    Mo. No. 2010-1045  
The People &c.,  
                          Respondent,  
                          v.  
Dondi Credle,  
                          Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

1                   Mo. No. 2010-769  
The People &c. ex rel. Gaetano  
D'Attore,  
                  Appellant,  
                  v.  
Juan Quinonez, &c.,  
                  Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

4                   Mo. No. 2010-661  
Albert G. Fraccola, Jr.,  
                  Appellant,  
                  v.  
Phyllis Fraccola,  
                  Respondent,  
et al.,  
                  Defendants.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

2                   Mo. No. 2010-796  
In the Matter of Donahue A.  
Francis,  
                  Appellant,  
                  v.  
Sherry F. Holder,  
                  Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

2                   Mo. No. 2010-797  
In the Matter of Sherry F.  
Holder,  
                  Respondent,  
                  v.  
Donahue A. Francis,  
                  Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

2                   Mo. No. 2010-1058  
The People &c.,  
                  Appellant,  
                  v.  
Robert Franov,  
                  Respondent.

Motion for assignment of counsel  
granted and Judah Maltz, Esq., 125-10  
Queens Boulevard, Suite 12, Kew  
Gardens, NY 11415 assigned as counsel  
to the respondent on the appeal  
herein.

1                   Mo. No. 2010-724  
Greenberg, Trager & Herbst, LLP,  
                    Appellant,  
                    v.  
HSBC Bank USA and Citibank, N.A.,  
                    Respondents.  
(And a Third-Party Action.)

Motion for leave to appeal granted.

4                   Mo. No. 2010-1052  
Griffith Oil Company, Inc., Big  
Flats Realty, Inc., and E.  
Phillip Saunders, as Trustee,  
                    Respondents,  
                    v.  
National Union Fire Insurance  
Company of Pittsburgh, PA.,  
                    Appellant,  
et al.,  
                    Defendants.

Motion by United Policyholders et al.  
for leave to file a brief amici curiae  
on the appeal herein granted and the  
proposed brief is accepted as filed.  
Two copies of the brief must be served  
and 24 copies filed within seven days.

4                   Mo. No. 2010-841  
In the Matter of Sean H. and  
Gregory H.

Motion for leave to appeal denied.

Oneida County Department of  
Social Services,  
                    Respondent;  
Kiesha H.,  
                    Appellant.

2                   Mo. No. 2010-764  
The People &c.,  
                    Respondent,  
                    v.  
Robert Harris,  
                    Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2010-747  
The People &c.,  
                    Respondent,  
                    v.  
Michael Hughes,  
                    Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

4                    Mo. No. 2010-1069  
The People &c.,  
                    Respondent,  
                    v.  
Shawn Hunter,  
                    Appellant.

Motion for assignment of counsel  
granted and Timothy P. Donaher, Esq.,  
Monroe County Public Defender, 10 N.  
Fitzhugh Street, Rochester, NY 14614  
assigned as counsel to the appellant  
on the appeal herein.

1                    Mo. No. 2010-794  
The People &c.,  
                    Respondent,  
                    v.  
Delroy Joe, &c.,  
                    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2010-834  
Shirley Johnson,  
                    Appellant,  
                    v.  
Concourse Village Inc., et al.,  
                    Respondents.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

4                    Mo. No. 2010-717  
Ruby Jordan, &c.,  
                    Respondent,  
                    v.  
Richard Premo,  
                    Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2010-784  
John D. Justice,  
                    Appellant,  
                    v.  
State of New York,  
                    Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

Mo. No. 2010-1068  
Alice Kramer,  
Respondent,  
v.  
Phoenix Life Insurance Co.,  
Lincoln Life & Annuity Co. of New  
York,  
Defendants,  
Lifemark S.A.,  
Intervenor-Appellant.  
(and third-party actions.)

Motion by Institutional Life Markets  
Association for leave to appear amicus  
curiae on consideration of the  
certified question herein granted only  
to the extent that the proposed brief  
is accepted as filed. Two copies of  
the brief must be served and 24 copies  
filed within seven days.

Mo. No. 2010-1074  
Alice Kramer,  
Respondent,  
v.  
Phoenix Life Insurance Co.,  
Lincoln Life & Annuity Co. of New  
York,  
Defendants,  
Lifemark S.A.,  
Intervenor-Appellant.  
(and third-party actions.)

Motion by American Council of Life  
Insurers et al. for leave to file a  
brief amici curiae on consideration of  
the certified question herein granted  
and the proposed brief is accepted as  
filed. Two copies of the brief must  
be served and 24 copies filed within  
seven days.

Mo. No. 2010-1082  
Alice Kramer,  
Respondent,  
v.  
Phoenix Life Insurance Co.,  
Lincoln Life & Annuity Co. of New  
York,  
Defendants,  
Lifemark S.A.,  
Intervenor-Appellant.  
(and third-party actions.)

Motion by Life Insurance Settlement  
Association for leave to appear amicus  
curiae on consideration of the  
certified question herein granted only  
to the extent that the proposed brief  
is accepted as filed. Two copies of  
the brief must be served and 24 copies  
filed within seven days.

1 Mo. No. 2010-791  
The People &c. ex rel. Douglas  
Latta,  
Appellant,  
v.  
Robert M. Morgenthau, &c.,  
et al.,  
Respondents.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

2                   Mo. No. 2010-823  
Lend-Mor Mortgage Bankers Corp.,  
                  Respondent,  
                  v.  
Edward Nicholas, et al.,  
                  Defendants,  
Ameriquest Mortgage Company,  
                  Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

4                   Mo. No. 2010-695  
The People &c. ex rel. Rydelle  
Lewis,  
                  Appellant,  
                  v.  
Carl B. Hunt, &c.,  
                  Respondent.

Motion for leave to appeal denied.

4                   Mo. No. 2010-686  
Alexander Lifson, &c.,  
                  Appellant,  
                  v.  
City of Syracuse et al.,  
                  Respondents.

Motion for leave to appeal granted.

1                   Mo. No. 2010-756  
Nella Manko,  
                  Appellant,  
                  v.  
Dr. Dana Mannor, et al.,  
                  Respondents,  
Lenox Hill Hospital, &c., et al.,  
                  Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2                   Mo. No. 2010-996  
The People &c.,  
                  Respondent,  
                  v.  
Ulysess McKnight,  
                  Appellant.

Motion for assignment of counsel granted and Steven Banks, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

3                   Mo. No. 2010-824  
In the Matter of Meadowsweet  
Dairy, LLC, et al.,  
                  Appellants,  
                  v.  
Patrick Hooker, as Commissioner  
of Agriculture and Markets,  
et al.,  
                  Respondents.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

2                   Mo. No. 2010-805  
The People &c.,  
                  Respondent,  
                  v.  
Eduardo Miranda,  
                  Appellant.

Motion for an extension of the time  
within which to apply for permission  
to appeal pursuant to CPL 460.20  
granted and motion papers treated as a  
timely CPL 460.20 application.

4                   Mo. No. 2010-698  
In the Matter of Rachael N.  
  
Ontario County Department of  
Social Services,  
                  Respondent;  
Christine N. and Douglas M.,  
                  Appellants.

Motions for leave to appeal denied.

2                   Mo. No. 2010-767  
The People &c.,  
                  Respondent,  
                  v.  
David Neal,  
                  Appellant.

Motion for leave to appeal denied.

2                   Mo. No. 2010-1073  
Louis F. Ortiz,  
                  Appellant,  
                  v.  
Varsity Holdings, LLC., et al.,  
                  Respondents.

Motion by Defense Association of New  
York, Inc. for leave to file a brief  
amicus curiae on the appeal herein  
granted and the proposed brief is  
accepted as filed.

1                    Mo. No. 2010-995  
The People &c.,  
                    Respondent,  
                    v.  
Steve Johnson,  
                    Appellant.

Motion for assignment of counsel granted and Steven Banks, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

2                    Mo. No. 2010-845  
In the Matter of Barbara P.  
(Anonymous),  
                    Appellant;  
Robert Doar, &c.,  
                    Respondent.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]).

3                    Mo. No. 2010-728  
Portfolio Recovery Associates,  
LLC,  
                    Respondent,  
                    v.  
Jared King,  
                    Appellant.

Motion for reargument denied.

3                    Mo. No. 2010-713  
In the Matter of Cindy A. Renz,  
                    Appellant,  
                    v.  
Home Depot USA, Inc., et al.,  
                    Respondents.  
Workers' Compensation Board,  
                    Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.

3                    Mo. No. 2010-842  
In the Matter of Jesse Shannon,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.

Motion for leave to appeal denied. Motion for poor person relief dismissed as academic.

1                    Mo. No. 2010-735  
The People &c.,  
                    Respondent,  
                    v.  
Anthony Sherard,  
                    Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

4                    Mo. No. 2010-1014  
Joseph B. Sitts,  
                    Appellant,  
                    v.  
Allison L. Sitts,  
                    Respondent.

Motion to dismiss appeal dismissed as  
academic upon the ground that the  
appeal has been withdrawn.

3                    Mo. No. 2010-625  
In the Matter of Karlos Smith,  
                    Appellant,  
                    v.  
Elizabeth M. Devane, &c., et al.,  
                    Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2010-1056  
The People &c.,  
                    Respondent,  
                    v.  
Owen Steward,  
                    Appellant.

Motion for assignment of counsel  
granted and Richard M. Greenberg,  
Esq., Office of the Appellate  
Defender, 11 Park Place, Suite 1601,  
New York, NY 10007 assigned as counsel  
to the appellant on the appeal herein.

1                    Mo. No. 2010-828  
The Travelers Indemnity Company,  
                    Respondent,  
                    v.  
Orange and Rockland Utilities,  
Inc.,  
                    Appellant,  
John Doe Corporations 1-100,  
                    Defendants.

Motion for leave to appeal dismissed  
upon the ground that the order sought  
to be appealed from does not finally  
determine the action within the  
meaning of the Constitution.

1                   Mo. No. 2010-1055  
The Travelers Indemnity Company,  
                  Respondent,  
                  v.  
Orange and Rockland Utilities,  
Inc.,  
                  Appellant,  
John Doe Corporations 1-100,  
                  Defendants.

Motion by Central Hudson Gas &  
Electric Corporation for leave to  
appear amicus curiae on the motion for  
leave to appeal herein granted.

4                   Mo. No. 2010-799  
The People &c.,  
                  Respondent,  
                  v.  
Michael Urbanski,  
                  Appellant.

Motion for leave to appeal denied.

3                   Mo. No. 2010-793  
U.S. Bank National Association,  
                  Respondent,  
                  v.  
Michael H. Finkle et al.,  
                  Appellants,  
et al.,  
                  Defendant.

Motion for leave to appeal dismissed  
upon the ground that the order sought  
to be appealed from does not finally  
determine the action within the  
meaning of the Constitution.  
Motion for poor person relief  
dismissed as academic.

2                   Mo. No. 2010-825  
Wallkill Cemetery Association,  
Inc., et al.,  
                  Appellants,  
                  v.  
Town of Wallkill, et al.,  
                  Respondents.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

2                   Mo. No. 2010-1016  
In the Matter of Arthur J. Walsh,  
et al.,  
                  Respondents,  
          v.  
Anita S. Katz, et al.,  
                  Respondents,  
Daniel C. Ross,  
                  Appellant.  
(And a Third-Party Action.)

Motion to vacate this Court's August  
2, 2010 dismissal order granted.

1                   Mo. No. 2010-771  
In the Matter of World Trade  
Center Bombing Litigation.  
Steering Committee,  
                  Respondent,  
          v.  
The Port Authority of New York  
and New Jersey,  
                  Appellant.

Motion for leave to appeal granted.  
Chief Judge Lippman took no part.