

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

McGINN, SMITH & CO., INC.,
McGINN, SMITH ADVISORS, LLC,
McGINN, SMITH CAPITAL HOLDINGS CORP.,
FIRST ADVISORY INCOME NOTES, LLC,
FIRST EXCELSIOR INCOME NOTES, LLC,
FIRST INDEPENDENT INCOME NOTES, LLC,
THIRD ALBANY INCOME NOTES, LLC,
TIMOTHY M. MCGINN, AND
DAVID L. SMITH,

Defendants, and

LYNN A. SMITH,

Relief Defendant, and

DAVID M. WOJESKI, Trustee of David L. and Lynn A. Smith
Irrevocable Trust U/A 8/04/04,

Intervenor.

Case No.: 1:10-CV-457
(GLS/DRH)

CERTIFICATE OF SERVICE

I, JAMES P. LAGIOS, of ISEMAN, CUNNINGHAM, RIESTER & HYDE, LLP, hereby certify that on the 11th day of January, 2011, I caused the **LETTER MOTION FROM RICHARD A. FRANKEL REQUESTING LEAVE TO FILE REPLY** to be electronically filed with the Clerk of the U.S. District Court, Northern District of New York, using the CM/ECF system, which sent notification of such filing to the following:

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