

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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CA 10-02337

PRESENT: SCUDDER, P.J., FAHEY, CARNI, SCONIERS, AND MARTOCHE, JJ.

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WENDY JOHNSON, DANE V. JOHNSON AND DANIKA V.  
JOHNSON, PLAINTIFFS-APPELLANTS,

V

ORDER

NEW YORK STATE AND LOCAL RETIREMENT SYSTEM,  
OFFICE OF NEW YORK STATE COMPTROLLER, THOMAS P.  
DINAPOLI, KIMBERLY LEONE-JOHNSON,  
DEFENDANTS-RESPONDENTS,  
ET AL., DEFENDANT.  
(APPEAL NO. 1.)

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HAGERTY & BRADY, BUFFALO (EDWIN P. HUNTER OF COUNSEL), FOR  
PLAINTIFFS-APPELLANTS.

LAW OFFICE OF RALPH C. LORIGO, WEST SENECA (RALPH C. LORIGO OF  
COUNSEL), FOR DEFENDANT-RESPONDENT KIMBERLY LEONE-JOHNSON.

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Appeal from an order of the Supreme Court, Erie County (Frank A. Sedita, Jr., J.), entered October 27, 2010. The order, among other things, awarded defendant Kimberly Leone-Johnson one-third of decedent Dan Johnson's New York State Retirement Plan death benefit.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Loafin' Tree Rest. v Pardi* [appeal No. 1], 162 AD2d 985).

Entered: March 16, 2012

Frances E. Cafarell  
Clerk of the Court