

(ORDER LIST: 559 U.S.)

MONDAY, APRIL 19, 2010

ORDERS IN PENDING CASES

09A839 NEW YORK V. WILLIAMS, DARRELL, ET AL.

The application for stay addressed to Justice Alito and referred to the Court is denied.

09M85 THOMPSON, HOWARD L. V. FLORIDA

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

09-150 MICHIGAN V. BRYANT, RICHARD P.

The motion of respondent for appointment of counsel is granted. Peter Jon Van Hoek, Esquire, of Detroit, Michigan is appointed to serve as counsel for the respondent in this case.

09-559 DOE #1, JOHN, ET AL. V. REED, WA SEC. OF STATE, ET AL.

The motion of American Business Media, et al. for leave to file a brief as *amici curiae* out of time is granted.

09-944 PLACER DOME, INC., ET AL. V. PROVINCIAL GOVT. OF MARINDUQUE

The Solicitor General is invited to file a brief in this case expressing the views of the United States.

09-7073 GOULD, CARLOS R. V. UNITED STATES

The motion of petitioner for appointment of counsel is granted. David L. Horan, Esquire, of Dallas, Texas is appointed to serve as counsel for the petitioner in this case.

09-8014 IN RE CHARLES W. ALPINE

09-8375 SCHULTZ, PETER J. V. HALPIN, FRANCIS, ET AL.

09-8604 DOERR, DONALD W. V. WALKER, DAN, ET AL.

09-8917 BATES, THOMAS L. V. USDC ND IL

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

09-9536 MIERZWA, EDWARD J. V. HACKENSACK UNIV. MED. CENTER

09-9686 ROBLES, FRANCISCO V. UNITED STATES

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until May 10, 2010, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

08-1423 COSTCO WHOLESALE CORPORATION V. OMEGA, S.A.

09-400 STAUB, VINCENT E. V. PROCTOR HOSPITAL

09-846 UNITED STATES V. TOHONO O'ODHAM NATION

09-907 RANSOM, JASON M. V. MBNA, AMERICA BANK, N.A.

The petitions for writs of certiorari are granted.

CERTIORARI DENIED

08-11105 BARRITEAU, BYRON M., ET AL. V. HOLDER, ATT'Y GEN.

09-79 BELLEVUE, BEAUVAIS V. HOLDER, ATT'Y GEN.

09-176 LAKESIDE-SCOTT, LEA V. MULTNOMAH COUNTY, OR, ET AL.

09-440 SCHRAMM, WILLIAM H. V. LaHOOD, SEC. OF TRANSPORTATION

09-538 CONSUMERS' CHECKBOOK V. H&HS, ET AL.

09-580 ZEPHIER, HARLEY D., ET AL. V. UNITED STATES, ET AL.

09-583 BROWNING, HENRIETTA V. UNITED STATES, ET AL.

09-590 PROGRAMMERS GUILD, ET AL. V. NAPOLITANO, SEC. OF HOMELAND

09-604 NGUYEN, VINCE V. V. CALIFORNIA

09-628 VEZINA, RICHARD V. FLORIDA

09-664 ARAMBULA-MEDINA, LUIS E. V. HOLDER, ATT'Y GEN.

09-666 LITHIUM POWER, ET AL. V. UNITED STATES, EX REL. LONGHI
09-678 SIMON, PATRICIA, ET AL. V. UNITED STATES
09-717 BANKS, DELMA V. THALER, DIR., TX DCJ
09-727 BRADLEY, RODRIQUE V. LOUISIANA
09-763 TURNIPSEED, DARNIECE, ET AL. V. BROWN, CLERK, ETC., ET AL.
09-788 NORFOLK SOUTHERN RAILWAY CO. V. JORDAN, THOMAS D., ET AL.
09-790 ZAGORSKI, EDMUND V. BELL, WARDEN
09-799 DAVIES, ERIC L., ET UX. V. MOYSA, DAVID T., ET UX.
09-800 NORTH COUNTY COMMUNITY ALLIANCE V. SALAZAR, SEC. OF INTERIOR
09-810 GRAND RIVER SIX NATIONS V. McDANIEL, ATT'Y GEN. OF AR
09-826 STONE, DAVID K., ET AL. V. DEVON ENERGY PRODUCTION CO.
09-946 JASKOLSKI, JOSEPH, ET AL. V. DANIELS, RICK, ET AL.
09-947 KIM, CYRUS Y. V. TARGA REAL ESTATE SERVICE, INC.
09-950 BITTNER, MARCI J. V. SNYDER COUNTY, PA, ET AL.
09-961 HOLLANDER, ROY D., ET AL. V. UNITED STATES, ET AL.
09-964 MCGOWAN, WILLIAM A. V. DEERE & COMPANY
09-970 BOYLE, RICHARD V. ASTRUE, COMM'R, SOCIAL SEC.
09-971 MARSHALL, JAMES V. FLORIDA
09-974 RIOS, ANTHONY A. V. CALIFORNIA
09-975 PETERSON, MARIA L. V. PDQ FOOD STORES INC., ET AL.
09-984 OWEN, TIMOTHY J. V. SANDS, STEPHEN P.
09-995 TOLLE, DAVID V. KENTUCKY
09-1002 DAVIS, DAVID M. V. MINNESOTA
09-1003 FISENKO, SERGEY V. HOLDER, ATT'Y GEN.
09-1013 SORIANO-ARELLANO, FELIPE V. HOLDER, ATT'Y GEN.
09-1020 NEWTON, JOE V. HOBBS, INTERIM DIR., AR DOC
09-1043 ANGHEL, EMIL D. V. ST. FRANCIS HOSPITAL
09-1045 PALAND, DAVID V. BROOKTRAILS TWP. COM. SERVICES

09-1049 RAYMOND, DOUGLAS J. V. SUPREME COURT OF OH

09-1068 COGSWELL, JOHN M. V. UNITED STATES SENATE

09-1084 KRATT, FRED V. UNITED STATES

09-1093 HICKEY, JOHN A. V. UNITED STATES

09-1094 CAMPBELL, CHARLES M. V. UNITED STATES

09-1096 FRESENIUS USA, INC., ET AL. V. BAXTER INTERNATIONAL, ET AL.

09-1099 RUBASHKIN, SHOLOM V. UNITED STATES

09-1102 ROWLEY, JOYCE E. V. NORTH MYRTLE BEACH, SC, ET AL.

09-1107 TURNER, ERNEST V. UNITED STATES

09-1120 BILOTTO, VINNIE V. UNITED STATES

09-1129 REHAK, TIMOTHY C., ET AL. V. UNITED STATES

09-1133 DAVIS, EUGENE V. UNITED STATES

09-1139) THOMPSON, KENNETH V. UNITED STATES

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09-1141) BOLGER, ROMEL V. UNITED STATES

09-1153 CARSWELL, DONN, ET AL. V. HI DEPT. OF LAND, ET AL.

09-6845 KAMARA, AMINATA B. V. HOLDER, ATT'Y GEN.

09-7382 RANDOLPH, ALBERT V. UNITED STATES

09-7579 MEZA, MARIO L. V. CALIFORNIA

09-7697 FOOTS, FREDDY L. V. UNITED STATES

09-7845 ADAMS, MIKAL D. V. CALIFORNIA

09-7927 GRAYSON, FREDDIE J. V. CALIFORNIA

09-7950 CHRISTIAN, JESSE L. V. UNITED STATES

09-8022 TU, VINCENT V. CALIFORNIA

09-8087 QUEZADA, ALBERT V. CALIFORNIA

09-8126 COLEY, OMARI S. V. UNITED STATES

09-8147 NUREK, JOSEPH T. V. UNITED STATES

09-8185 BROWN, JAMES J. V. UNITED STATES

09-8195 WOODWARD, PAUL E. V. EPPS, COMM'R, MS DOC

09-8206 MERCER, GREGORY S. V. VIRGINIA
09-8266 CARDENAS, RUBEN R. V. TEXAS
09-8416 BALTAZAR, LUIS D. V. CALIFORNIA
09-8511 GUTIERREZ, EDWARD V. CALIFORNIA
09-8512 INGALLS, DWANE V. AES CORP.
09-8589 BUCK, DUANE E. V. THALER, DIR., TX DCJ
09-8591 YALDA, ALEX V. CALIFORNIA
09-8610 HOOD, CHARLES D. V. TEXAS
09-8613 HERON-SALINAS, JUAN V. UNITED STATES
09-8766 LAND, MICHAEL J. V. ALLEN, COMM'R, AL DOC, ET AL.
09-8980 JOHNSON, RAFEAL V. GODDARD, ATT'Y GEN. OF AZ
09-8981 DICK, ANTONY J. V. PENNSYLVANIA
09-8983 LEWIS, DEANDRE V. ADAMS, WARDEN
09-8986 OCHEI, JOAN V. ALL CARE/ONWARD, ET AL.
09-8992 BARBER, ELLIS H. V. FBI, ET AL.
09-8997 THOMAS, ERIC V. ADAMS, WARDEN, ET AL.
09-9001 NORIEGA, ELIBERTO V. V. THALER, DIR., TX DCJ
09-9002 HOLLAND, GERALD J. V. ANDERSON, SUPT., MS
09-9005 LaVALLEY, YUKI V. CALIFORNIA
09-9009 WINFIELD, JOHN E. V. ROPER, SUPT., POTOSI
09-9020 VEGA, DOMINGO V. McVEY, CATHERINE, ET AL.
09-9022 JOHNSTON, CHAD E. V. THALER, DIR., TX DCJ
09-9023 LLOYD, DARNELL V. PENNSYLVANIA
09-9026 MILLER, DAVID V. THALER, DIR., TX DCJ
09-9028 CRUMMEL, JAMES L. V. CATE, SEC., CA DOC, ET AL.
09-9031 CANTU, PETER A. V. THALER, DIR., TX DCJ
09-9040 LYONS, JAMES D. V. UNITED STATES
09-9045 NIEVES, REUBEN V. WORLD SAVINGS BANK, FSB, ET AL.

09-9046 BALLARD, TODD D. V. PENNSYLVANIA
09-9047 ARMANT, EDDIE J. V. STALDER, FORMER SEC., LA DOC
09-9050 BYRD, TIMOTHY V. LEWIS, WARDEN, ET AL.
09-9051 BOYER, PATRICIA S. V. BOYER, STAN L.
09-9055 MUHAMMAD, ABDUL V. ILLINOIS
09-9058 GREEN, GEORGIA A. V. MAROULES, CHRISTOPHER, ET AL.
09-9062 JENNINGS, DARRYL V. NEW JERSEY
09-9063 LANG, JAMES E. V. McNEIL, SEC., FL DOC
09-9068 ZABRISKIE, SCOTT R. V. ORLANDO POLICE, ET AL.
09-9069 WILKERSON, GEORGE T. V. NORTH CAROLINA
09-9073 MUHAMMED, FARD V. WI INS. SECURITY FUND, ET AL.
09-9075 BALL, DENNIS A. V. BALL, CAROL L., ET AL.
09-9077 BELL, ALEXANDER V. MYERS, MAJOR, ET AL.
09-9080 JUDD, KEITH R. V. NEW MEXICO
09-9081 McNEIL, DELBERT V. HOWARD, WARDEN, ET AL.
09-9083 KING, ERIC J. V. RYAN, DIR., AZ DOC
09-9084 JONES, BERNELL V. FISCHER, COMM'R, NY DOC
09-9086 WILKENS, APRIL R. V. OKLAHOMA
09-9087 BENEDICT, CHARLES J. V. TEXAS
09-9088 BLAXTON, OTIS V. FLORIDA
09-9090 LISTON, CHARLES V. BOWERSOX, SOUTH CENTRAL
09-9100 TREVINO, DANIEL V. McNEIL, SEC., FL DOC, ET AL.
09-9109 HODGE, BENNY L. V. PARKER, WARDEN
09-9117 WILLIAMS, RASHAN V. CAIN, WARDEN
09-9119 WITHEROW, JOHN V. CRAWFORD, JACKIE, ET AL.
09-9124 COMBS, CARSON D. V. VOIGT, LAURIE, ET AL.
09-9128 PARKER, KELVIN V. JOHNSON, DIR., VA DOC
09-9129 COLLIER, SHONGO V. ILLINOIS

09-9132 JOHNSON, TARONE D. V. SOUTH CAROLINA, ET AL.
09-9134 MARDESICH, JOHN B. V. WASHINGTON
09-9138 COMBS, CARSON D. V. PEDERSEN, SHERIFF
09-9139 DIXON, ROY V. PALM BEACH CTY. PARKS
09-9140 CRAIN, STEVEN V. CLARK COUNTY PUBLIC DEFENDER
09-9147 CASEY, MICHAEL R. V. HARVEY, PETER
09-9150 SMITH, GLORIA D. V. ESTES EXPRESS
09-9151 SMITH, MICHAEL A. V. MISSOURI
09-9167 SEMLER, RAYMOND L. V. FINCH, DONNA
09-9169 JOHNSTON, JARED D. V. OLLISON, WARDEN
09-9170 LINDSEY, TIMOTHY H. V. UNITED STATES
09-9207 WEBB, MICHAEL D. V. BOBBY, WARDEN
09-9221 BARBOUR, KENNETH E. V. VA DOC, ET AL.
09-9224 ARANA, PEDRO V. CALIFORNIA
09-9231 GRANDOIT, GERARD D. V. COOPERATIVE FOR HUMAN SERVICES
09-9237 KEESH, TYHEEM, ET AL. V. SMITH, SUPT., SHAWANGUNK, ET AL.
09-9278 RHODES, OSCAR V. LEE, SUPT., GREEN HAVEN
09-9279 RAY, FRED V. MISSOURI
09-9286 RICHARD, THOMAS P. V. PENNSYLVANIA
09-9289 AKINMULERO, OLASEBIKAN V. HOLDER, ATT'Y GEN., ET AL.
09-9303 DeLEON, RAYMOND V. THALER, DIR., TX DCJ
09-9310 AL'SHAHID, CURTIS V. HUDSON, WARDEN
09-9312 MILES, GRACE V. MAKISHIMA, ROYCE L., ET AL.
09-9315 CREWSHAW, CHARLES V. KLOPOTOSKI, SUPT., DALLAS, ET AL.
09-9327 PARHAM, LEROY V. UNITED STATES
09-9339 MARTINEZ, JOSE A. V. CALIFORNIA
09-9340 LEWIS, DWIGHT D. V. DAVIS, WARDEN
09-9343 THURMOND, RONALD A. V. McKEE, WARDEN

09-9382 ALLEN, STANFORD T. V. BALLARD, WARDEN, ET AL.

09-9386 CROSS, FLOYD E. V. DES MOINES POLICE DEPT., ET AL.

09-9390 HALL, DORIS A. V. MSPB

09-9391 HALL, DAVID L. V. VIRGINIA

09-9424 DuLAURENCE, HENRY J. V. LIBERTY MUTUAL INS. CO., ET AL.

09-9444 WEST VIRGINIA, EX REL. FARMER V. McBRIDE, WARDEN

09-9467 HOWARD, JOSHUA V. WEBSTER, NEVIN, ET AL.

09-9473 GADDY, DAVID W. V. MISSISSIPPI

09-9475 GORBATY, DMITRY V. PORTFOLIO RECOVERY

09-9478 CARL, HALVOR V. UNITED STATES

09-9481 SIMMONS, CURTIS V. UNITED STATES

09-9482 JORDAN, MARK V. UNITED STATES

09-9503 BOBB, SHERMAN V. UNITED STATES

09-9504 WILLIAMS, MARTY D. V. COOPER, ATT'Y GEN. OF TN

09-9512 SPYKES, LARRY V. UNITED STATES

09-9516 HUDSON, ANTONIO V. KAPTURE, WARDEN

09-9518 MILLER, TREVOR V. UNITED STATES

09-9525 NESBIT, DARNELL V. UNITED STATES

09-9526 MORTON, TYRONE V. UNITED STATES

09-9527 ROUM, BUONY V. UNITED STATES

09-9537 BINOYA, JOVITO M. V. UNITED STATES

09-9540 WARRINGTON, ANDREW E. V. PHELPS, WARDEN, ET AL.

09-9543 SAUNDERS, SHAWNDALE D. V. UNITED STATES

09-9544 McCORVEY, JAMES C. V. UNITED STATES

09-9546 MORELAND, ANTHONY V. UNITED STATES

09-9549 CORTES-MORALES, JORGE W. V. UNITED STATES

09-9550 DORSEY, AKIL V. UNITED STATES

09-9552 MONSALVE, CARLOS A. V. UNITED STATES

09-9554 WINSTON, GERMON M. V. UNITED STATES
09-9556 BIAS, RASHAWN V. UNITED STATES
09-9558 BELVADO, RODNEY A. V. UNITED STATES
09-9560 DAVIS, MICHAEL C. V. UNITED STATES
09-9561 SCOGGINS, TREMAYNE V. UNITED STATES
09-9562 SUKUP, THOMAS M. V. UNITED STATES
09-9566 GALEOTE, LETICIA V. UNITED STATES
09-9567 FOSTER, MARCUS L. V. UNITED STATES
09-9568 HICKMAN, BEN V. UNITED STATES
09-9569 FERGUSON, P. W. V. UNITED STATES
09-9570) CERVANTES-GUZMAN, JESUS V. UNITED STATES
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09-9590) BERNAL-BENITEZ, FABIAN V. UNITED STATES
09-9571 COLLINS, TOIJUANA G. V. UNITED STATES
09-9576 SANDERS, ROOSEVELT C. V. O' BRIEN, WARDEN, ET AL.
09-9577 SIMMONS, ALAN L. V. UNITED STATES
09-9578 SMITH, TOMMY V. UNITED STATES
09-9581 MONTGOMERY, EDRES V. UNITED STATES
09-9582 MIMS, COREY V. UNITED STATES
09-9583 ALLEN, RICHARD A. V. UNITED STATES
09-9586 JEBURK, CHRISTOPHER L. V. UNITED STATES
09-9588 LATHAM, DWIGHT J. V. UNITED STATES
09-9589 BUTTS, PAUL R. V. UNITED STATES
09-9591 RAMOS-LOPEZ, MARCELINO V. UNITED STATES
09-9592 RUMLEY, CLINTON L. V. UNITED STATES
09-9593 DORVAL, GAYOT V. UNITED STATES
09-9595 CARROLL, DAVID V. UNITED STATES
09-9596 DIEHL, EARL L. V. MORGAN, WARDEN
09-9597 CENICEROS, DEBRA V. UNITED STATES

09-9598 DISCUA, SELVIN A. V. UNITED STATES
09-9601 SCHLIEFSTEINER, CHRISTIANE M. V. O'BRIEN, MELINDA
09-9608 CEBALLOS, LUIS V. UNITED STATES
09-9610 ROANE, COREY V. UNITED STATES
09-9613 MURILLO-RODRIGUEZ, JOSE L. V. UNITED STATES
09-9615) BREON, MICHAEL V. UNITED STATES
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09-9679) ROBINSON, CORNELIUS V. UNITED STATES
09-9621 PACE, ANTHONY L. V. UNITED STATES
09-9623 MIDKIFF, JAMES B. V. UNITED STATES
09-9624 ADAMS, GARY L. V. UNITED STATES
09-9627 BOYD, JOHN L. V. UNITED STATES
09-9628 MARTINEZ-MARTINEZ, DONALT Y. V. UNITED STATES
09-9633 JENS, GREGORY V. JENKINS, WARDEN
09-9641 JACKSON, ANTHONY V. UNITED STATES
09-9644 PEIRCE, CAROL V. UNITED STATES
09-9645 OSUAGWU, UZOMA O. V. UNITED STATES
09-9646 SILVA, ALEJANDRO V. UNITED STATES
09-9648 MARTIN, JOHN A. V. UNITED STATES
09-9650 WILLIS, SAMUEL K. V. UNITED STATES
09-9656 LOVE, EARLFONZO V. UNITED STATES
09-9657 LAWTHORPE, DEAN V. UNITED STATES
09-9663 VEGA-COLON, MIGUEL V. UNITED STATES
09-9666 DAVIS, EMERSON O. V. UNITED STATES
09-9670 GOMEZ, ROMALDO A. V. UNITED STATES
09-9671 NUNNALLY, TREVIN V. UNITED STATES
09-9672 HARRIS, KEVIN V. UNITED STATES
09-9674 FELICIANO, ELENO C. V. UNITED STATES
09-9681 SMITH, ROBERT V. UNITED STATES

09-9682 SALOM, GUY V. UNITED STATES
09-9684 REED, JOHNNIE L. V. UNITED STATES
09-9692 BRADBERRY, JOHNNY V. UNITED STATES
09-9693 KETCHUP, IRAN D. V. DRIVER, WARDEN
09-9694 REYES-ECHEVARRIA, RUBEN V. UNITED STATES
09-9696 BASS, ALIF V. UNITED STATES
09-9698 BERTRAM, ERIC N. V. UNITED STATES
09-9700 LOPEZ-LOPEZ, EDDY O. V. UNITED STATES
09-9710 RUCKES, ADRICK E. V. UNITED STATES
09-9713 DORVILUS, MAURICE V. UNITED STATES
09-9716 LUBO, JUAN A. V. UNITED STATES
09-9717 LAHERA, JUAN V. WALT DISNEY CO., ET AL.
09-9718 AYALA-RAMOS, JOSE U. V. UNITED STATES
09-9719 ORTIZ-ARRIAGA, SANTOS V. UNITED STATES
09-9722 ROJAS-RODRIGUEZ, OCTAVIO V. UNITED STATES
09-9727 COVARRUBIAS-GARCIA, SERGIO V. UNITED STATES
09-9728 CALDERON-GARCIA, GUSTAVO V. UNITED STATES
09-9732 VALVERDE-GARCIA, MOISES V. UNITED STATES
09-9733 WILLIAMS, JOHN V. UNITED STATES
09-9734 ZUNIGA-MENDEZ, JOSE L. V. UNITED STATES
09-9737 OWDEN, TERRENCE S. V. UNITED STATES
09-9739 JAQUEZ-DIAZ, JESUS S. V. UNITED STATES
09-9742 HERNANDEZ-HERNANDEZ, MANUEL V. UNITED STATES
09-9748 MURPHY, MICHAEL J. V. UNITED STATES
09-9753 EDWARDS, DARRYL D. V. UNITED STATES
09-9755 DESHOTELS, DONALD B. V. UNITED STATES
09-9759 LAWSON, CHARLES V. UNITED STATES
09-9760 LOEW, JEROME J. V. UNITED STATES

09-9763 JACKSON, LAWRENCE V. UNITED STATES
09-9765 SWAIN, MITCHELL V. UNITED STATES
09-9766 RICHMOND, MARSHALL V. UNITED STATES
09-9777 GUERRA, JENNIFER D. V. UNITED STATES
09-9781 GUERRERO-FLORES, ADAN V. UNITED STATES
09-9783 GILLIAM, JOHN E. V. UNITED STATES
09-9785 GONZALEZ-GUTIERREZ, GERARDO V. UNITED STATES
09-9788 QUINTERO-CALLE, CESAR V. UNITED STATES
09-9791 MENA-HIDLAGO, TIBERINO V. UNITED STATES
09-9792 PHILLIPS, FRANK V. UNITED STATES

The petitions for writs of certiorari are denied.

09-579 WOLFCHILD, SHELDON P., ET AL. V. UNITED STATES, ET AL.

The motion of Historic Shingle Springs Miwok for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

09-781 MINNESOTA V. RUSSELL, DANON J.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

09-805 D. D. V. NJ DIV. OF YOUTH & FAMILY SVCS.

The motion of respondents M.D. and K.D. for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

09-813 GENNIMI, WENDY V. LEWISBORO, NY, ET AL.

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

- 09-861 CITIZENS FOR POLICE ACCTBIL. V. BROWNING, FL SEC. OF STATE
The motion of Marion B. Brechner First Amendment Project, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.
- 09-931 SMITH, KENNETH L. V. BENDER, JUSTICE, ET AL.
The motion of petitioner to defer consideration of the petition for a writ of certiorari is denied. The petition for a writ of certiorari is denied.
- 09-939 PILLAY, KENNETH D. V. CISCO SYSTEMS, INC., ET AL.
The petition for a writ of certiorari is denied. Justice Breyer took no part in the consideration or decision of this petition.
- 09-943 SALSBERG, STEVEN, ET AL. V. TRICO MARINE SERVICES, ET AL.
The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.
- 09-956 DOYLE, ROBERT V. AMERICAN HOME PRODUCTS, ET AL.
- 09-1080 PORRAS, LIDERS V. HOLDER, ATT'Y GEN.
The petitions for writs of certiorari are denied. Justice Sotomayor took no part in the consideration or decision of these petitions.
- 09-9042 LASKEY, LAURIE M. V. RCN CORP.
- 09-9074 BLOOM, STEVEN K. V. RICE, ELIZABETH L., ET AL.
- 09-9093 MOORE, GREGORY L. V. OWENS, RISSIE L., ET AL.
The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

09-9638 THOMAS, CHARLES B. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992) (*per curiam*). Justice Stevens dissents. See *id.*, at 4, and cases cited therein.

09-9655 JASS, MARIAN V. UNITED STATES

09-9715 DARBY, WILLIAM V. UNITED STATES

09-9745 TUCKER, EDWARD V. UNITED STATES

09-9784 HESTER, TRAVIS S. V. UNITED STATES

The petitions for writs of certiorari are denied. Justice Sotomayor took no part in the consideration or decision of these petitions.

HABEAS CORPUS DENIED

09-9664 IN RE WESLEY A. HERRING

09-9750 IN RE WINDELL McCLAIN

09-9867 IN RE JEFFREY L. CHRONISTER

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

09-985 IN RE STACY A. PATTERSON

The petition for a writ of mandamus is denied.

09-8998 IN RE SAMUEL L. BIERS

The petition for a writ of mandamus and/or prohibition is

denied.

REHEARINGS DENIED

08-1458 MO GAS ENERGY V. SCHMIDT, MONICA
09-273 THALER, DIR., TX DCJ V. HAYNES, ANTHONY C.
09-347 DUTKA, NORA, ET AL. V. AIG LIFE INSURANCE COMPANY
09-402 McCANE, MARKICE L. V. UNITED STATES
09-461 WEST, STEPHEN M. V. BELL, WARDEN
09-661 KASHARIAN, JOHN C. V. NJ DEPT. OF ENVTL. PROTECTION
09-689 HUNSBERGER, MARK J., ET UX. V. WOOD, DEPUTY SHERIFF
09-715 SMITH, WILLIAM V. FRIEDMAN, ALVIN, ET AL.
09-735 ALEXANDER, JON D. V. SMITH, CHARLES E., ET AL.
09-7257 IRICK, BILLY R. V. BELL, WARDEN
09-7259 REDMAN, DEBORAH V. POTOMAC PLACE ASSOCIATES, LLC
09-7278 CAMILLO, EDWARD Z. V. SHINSEKI, SEC. OF VA
09-7365 SMITH, ADRIAN V. BRIDGESTONE FIRESTONE, ET AL.
09-7453 SAIRRAS, GIOVANNI V. SCHLEFFER, JONATHAN, ET AL.
09-7506 BROWN, HOWARD V. KELLEY, CURTISS J., ET AL.
09-7542 GRUBER, MARK V. BUESCHER, CO SEC. OF STATE
09-7628 SONNTAG, JASON E. V. USDC NV, ET AL.
09-7670 MORTLAND, RUSSELL D. V. TEXAS
09-7733 JACKSON, MARK C. V. SHINSEKI, SEC. OF VA
09-7777 HARBISON, EDWARD J. V. LITTLE, COMM'R, TN DOC, ET AL.
09-7795 SELF, TERRY V. DEVON ENERGY PRODUCTION
09-7802 HANSEN, GEIR V. INDUSTRIAL CLAIM APPEALS OFFICE
09-7858 POWERS, COLEEN L. V. MESABA AVIATION, INC., ET AL.
09-7922 PALMER, DEXTER R. V. SMITH, WARDEN
09-7945 WIMBERLY, MARCIA E. V. ROYAL, ELBERT, ET AL.
09-8089 KLAT, SUSAN V. V. MITCHELL REPAIR INFORMATION CO.

09-8119 BROWN, SHERWOOD V. UNITED STATES
09-8135 FULLER, CURTIS V. BURNETT, DAVE J., ET AL.
09-8198 IN RE ALFREDO M. SANCHO
09-8200 BLACKMER, PAUL V. BLAISDELL, WARDEN
09-8222 GENEVIER, PIERRE V. DeMORE, BRIAN
09-8263 WALTERS, MARTIN V. FLORIDA
09-8309 VEGA-FIGUEROA, JOSE A. V. UNITED STATES
09-8322 WILLIAMS, DERRICK V. UNITED STATES
09-8369 JUDD, KEITH R. V. UNITED STATES
09-8393 RANDLE, CLARENCE V. CALIFORNIA
09-8417 BECKFORD, WAYNE A. V. HOLDER, ATT'Y GEN.
09-8426 JUDD, KEITH R. V. UNITED STATES
09-8432 NIKIFORAKIS, MICHAEL V. STANEK, RICHARD W.
09-8451 WILSON, CALVIN V. FLORIDA
09-8477 CHEN, QIAN V. MARTINEZ, JUDGE, USDC WD WA
09-8849 REVELS, FREDERICK L. V. REYNOLDS, JAMES, ET AL.

The petitions for rehearing are denied.

09-8517 LASKEY, LAURIE M. V. CISCO TECHNOLOGY, INC.

The petition for rehearing is denied. Justice Breyer took no part in the consideration or decision of this petition.

SCALIA, J., concurring

SUPREME COURT OF THE UNITED STATESCHARLES E. HOLSTER, III *v.* GATCO, INC. DBA FOLIO
ASSOCIATESON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 08–1307. Decided April 19, 2010

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Second Circuit for further consideration in light of *Shady Grove Orthopedic Associates, P. A. v. Allstate Ins. Co.*, 559 U. S. ____ (2010). JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

JUSTICE SCALIA, concurring.

Petitioner Charles Holster filed this suit in federal court seeking actual and statutory damages—on behalf of himself and a class of others similarly situated—for alleged violations of the Telephone Consumer Protection Act of 1991, 47 U. S. C. §227. The District Court dismissed the suit, holding that the rule of *Erie R. Co. v. Tompkins*, 304 U. S. 64 (1938), applies to federal suits under the Act, and that N. Y. Civ. Prac. Law Ann. §901(b) (West 2006)—which bars class actions in suits seeking statutory damages—is “substantive” under *Erie*. 485 F. Supp. 2d 179, 184–186 (EDNY 2007). Federal Rule of Civil Procedure 23 had no bearing, it added, because “§901(b) is a matter not covered by [Rule] 23.” *Id.*, at 185, n. 3.

The Second Circuit summarily affirmed on the basis of its decision (issued the same day by the same panel) in *Bonime v. Avaya, Inc.*, 547 F. 3d 497 (2008). *Bonime* held that §901(b) applies to suits brought under the Act in federal court for two reasons. First, it read the Act to require that federal courts treat claims under the Act as though they arise under state law and therefore are sub-

SCALIA, J., concurring

ject to *Erie*. 547 F. 3d, at 501. Second, *Bonime* held that §227(b)(3)’s text—which provides that “[a] person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State” a suit for actual and statutory damages—forbids federal courts from hearing suits under the Act that would be barred in state court. 547 F. 3d, at 502.

Shady Grove Orthopedic Associates, P. A. v. Allstate Ins. Co., 559 U. S. ___ (2010), held that, irrespective of *Erie*, §901(b) does not apply to state-law claims in federal court because it is validly pre-empted by Rule 23. *Id.*, at ___–___ (slip op., at 3–12); *id.*, at ___–___ (plurality opinion) (slip op., at 12–16); *id.*, at ___–___ (STEVENS, J., concurring in part and concurring in judgment) (slip op., at 14–22). That holding assuredly affects—and in all likelihood eliminates—*Bonime*’s primary basis for applying §901(b) in federal court. The dissent insists, however, that *Bonime*’s second ground remains unaffected. *Post*, at 3 (opinion of GINSBURG, J.).

On one reading of *Bonime*’s opaque second ground, that is true: If the Second Circuit meant that §227(b)(3) requires federal courts hearing claims under the Act to apply *all* state procedural rules that would effectively bar a suit, then *Shady Grove* has no bearing. That is, however, a highly implausible reading of the Act. Besides effecting an implied partial repeal of the Rules Enabling Act, 28 U. S. C. §2072, it would require federal courts to enforce any prerequisite to suit state law makes mandatory—a state rule limiting the length of the complaint, for example, or specifying the color and size of the paper.

A more probable meaning of *Bonime*’s second ground is that when a State closes its doors to claims under the Act §227(b)(3) requires federal courts in the State to do so as well; but when such claims are allowed, the federal forum may apply its own procedures in processing them. See 547 F. 3d, at 502 (“This statutory language is unambiguous—a

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claim under the [Act] cannot be brought if not permitted by state law”). Nothing in *Bonime* suggests, for example, that a federal court could not consolidate two suits under the Act for its own convenience, see Fed. Rule Civ. Proc. 42(a), even if the State’s courts did not allow consolidation. Although that logic applies equally to Rule 23’s method of combining claims, *Bonime* may simply have assumed—as the appellee urged it to conclude,¹ as a number of district courts had held,² and as the Second Circuit itself held three weeks later³—that Rule 23 does not address whether class actions are available for specific claims. If that is what *Bonime* had in mind, *Shady Grove* will likely affect the Second Circuit’s analysis.

Shady Grove would also affect the outcome if the *Bonime* court believed that even if Rule 23 would otherwise allow a federal court to entertain a class action, §227(b)(3) supersedes Rule 23 by precluding suits that cannot be brought in state courts, including class actions barred by §901(b). *Shady Grove* reveals the error in this analysis: Section 901(b) does not prevent a plaintiff from *bringing* “an action to recover a penalty, or minimum measure of recovery created or imposed by statute”—as would be necessary to implicate §227(b)(3)—but only from “maintain[ing]” such a suit “*as a class action*” (emphasis added). *Shady Grove*, 559 U. S., at ____ (plurality opinion) (slip op., at 14); see also *id.*, at ____–____ (slip op., at 4–8).

For these reasons, I concur in the Court’s order.

¹Brief for Defendant-Appellee in No. 07–1136 (CA2), pp. 35–36.

²See, e.g., *Leider v. Ralfe*, 387 F. Supp. 2d 283, 290 (SDNY 2005); *In re Relafen Antitrust Litigation*, 221 F. R. D. 260, 284–285 (Mass. 2004); *Dornberger v. Metropolitan Life Ins. Co.*, 182 F. R. D. 72, 84 (SDNY 1999).

³See *Shady Grove Orthopedic Assocs., P. A., v. Allstate Ins. Co.*, 549 F. 3d 137, 143–145 (2008).

GINSBURG, J., dissenting

SUPREME COURT OF THE UNITED STATES

CHARLES E. HOLSTER, III v. GATCO, INC. DBA FOLIO ASSOCIATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 08–1307. Decided April 19, 2010

JUSTICE GINSBURG, with whom JUSTICE BREYER joins, dissenting.

Petitioner Charles Holster filed this putative class action against Gatco, Inc., in federal court, invoking the court’s jurisdiction under the Class Action Fairness Act of 2005, 28 U. S. C. §1332(d). Holster sought statutory damages for Gatco’s alleged violation of the Telephone Consumer Protection Act of 1991 (TCPA), 47 U. S. C. §227, which authorizes a “[p]rivate right of action” when a person is “otherwise permitted by the laws or rules of court of a State” to bring the action. §227(b)(3).

The District Court dismissed Holster’s suit based on N. Y. Civ. Prac. Law Ann. (CPLR) §901(b) (West 2006), the provision at issue in *Shady Grove Orthopedic Associates, P. A. v. Allstate Ins. Co.*, 559 U. S. ____ (2010). That statute prescribes that, unless specifically permitted, “an action to recover a penalty, or minimum measure of recovery created or imposed by statute may not be maintained as a class action.” §901(b). The District Court noted that, pursuant to §901(b), New York courts had closed their doors to class actions seeking statutory damages under the TCPA. 485 F. Supp. 2d 179, 185 (EDNY 2007).

Adopting its prior decision in *Bonime v. Avaya, Inc.*, 547 F. 3d 497 (2008), the Second Circuit summarily affirmed. *Bonime* held that §901(b) barred TCPA claims brought as class actions for two independent reasons. First, the Court of Appeals determined that §901(b) governed because it qualified as “substantive” under the doctrine of

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Erie R. Co. v. Tompkins, 304 U. S. 64 (1938). 547 F. 3d, at 501–502.

As a “second, independent” ground for its holding, the *Bonime* panel stated:

“The private right of action created by the TCPA allows a person or entity to, ‘if *otherwise permitted by the laws or rules of court of a State*, bring . . .’ an action for a violation of the TCPA. See 47 U. S. C. §227(b)(3) (emphasis added). This statutory language is unambiguous—a claim under the TCPA cannot be brought if not permitted by state law. ‘In determining the proper interpretation of a statute, this court will look first to the plain language of a statute and interpret it by its ordinary, common meaning. If the statutory terms are unambiguous, our review generally ends and the statute is construed according to the plain meaning of its words.’ *Tyler v. Douglas*, 280 F. 3d 116, 122 (2d Cir. 2001) (internal citations, quotation marks, and alteration omitted). This provision constitutes an express limitation on the TCPA which federal courts are required to respect.” *Id.*, at 502.

Judge Calabresi concurred, joining only the second ground “identified by the majority for its conclusion.” *Ibid.* As Judge Calabresi explained:

“A state law that bars suit in state court, like C. P. L. R. 901(b), . . . effectively eliminates the cause of action created under the TCPA because it eliminates the ‘may’ and the rest of the phrase that follows (‘bring . . . an action’). Federal law (the TCPA’s cause of action) directs courts to look to ‘the laws’ and ‘rules of court’ of a state. Thus, when a state refuses to recognize a cause of action, there remains no cause of action to which any grant of federal court jurisdiction could attach.” *Id.*, at 503.

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Although *Shady Grove* may bear on the Second Circuit's *Erie* analysis,* nothing in *Shady Grove* calls for a reading of §227(b)(3) that fails fully to honor “the laws [and] rules of court of [New York] State.” The Second Circuit's interpretation of the TCPA's private-right-of-action authorization stands on its own footing as an adequate and independent ground for dismissing Holster's suit. I would spare the Court of Appeals the necessity of revisiting—and, presumably, reinstating—its TCPA-grounded ruling.

*Holster, however, arguably forfeited the argument, accepted in *Shady Grove*, that Federal Rule of Civil Procedure 23 preempts §901(b); the District Court concluded that Rule 23 and §901(b) did not conflict and noted that Holster “d[id] not dispute” that point. 485 F. Supp. 2d 179, 185, n. 3 (EDNY 2007).