

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IRVING RUDERMAN,

Plaintiff,

- against -

NEW YORK STATE INSURANCE FUND,

Defendant.

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USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>7-9-10</u>
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09 Civ. 9370 (JGK)

MEMORANDUM OPINION  
AND ORDER

JOHN G. KOELTL, District Judge:

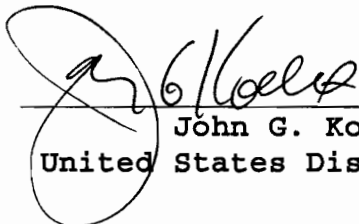
The plaintiff's application for the Court to appoint counsel is denied without prejudice to renewal, for failure to make the required showing at this time. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99 Civ. 2427 (JGK), 2000 WL 511642, at \*4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the plaintiff must, as a threshold matter, demonstrate that his claim has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 61-62. Only then can the Court consider the other factors appropriate to determination of whether counsel should be appointed: "plaintiff's ability to obtain representation independently, and

his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The plaintiff has not yet made such a showing.

The Court will refer this case to the pro se mediation program of the Court, where counsel will be provided solely for the purposes of the mediation.

**SO ORDERED.**

**Dated: New York, New York  
July 9, 2010**

  
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**John G. Koeltl  
United States District Judge**