

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ERNEST STEVE BARRY and  
MICHAEL BURKHART,

Plaintiffs,

No. 11 CV 5533 (CLP)

**STIPULATION AND ORDER  
OF SETTLEMENT**

-against-

THE CITY OF NEW YORK, et al.,

Defendants.  
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WHEREAS, plaintiffs commenced this action by filing a Complaint on or about November 14, 2011, alleging, *inter alia*, that the Defendant New York City Transit Authority ("Transit Authority")'s "ID Rule" (21 N.Y.C.R.R. § 1050.6(d)(3), first sentence) is unconstitutional; and

WHEREAS, in May 2012, Plaintiff Ernest Steve Barry and the Transit Authority consented to have the remainder of the case referred to a magistrate judge for all proceedings including the entry of judgment; and

WHEREAS, on March 21, 2013, Magistrate Judge Cheryl L. Pollak entered an order denying the Transit Authority's motion to dismiss, granting Mr. Barry's motion for summary judgment, and issuing a declaration that the ID Rule, as currently written, is unconstitutional; and

WHEREAS, on April 17, 2013, the Court clarified and ordered that its March 21, 2013 Order did not address or in any way affect the second sentence of 21 N.Y.C.R.R. § 1050.6(d)(3); and

WHEREAS, on April 22, 2013, the Transit Authority filed a notice of appeal from the March 21, 2013 declaratory judgment; and

WHEREAS, the parties wish to settle the remainder of the case;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for Mr. Barry and the Transit Authority, as follows:

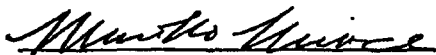
1. The Transit Authority shall pay reasonable attorneys' fees, expenses, and costs of FOURTEEN THOUSAND AND FIVE HUNDRED DOLLARS (\$14,500.00) to the New York Civil Liberties Union Foundation within 45 days in complete settlement of all matters between the parties. In accordance with federal law, the payments specified above shall be reported on Internal Revenue Service form 1099. The parties agree that any and all tax liabilities on the payments will be the sole responsibility of New York Civil Liberties Union.

2. The Transit Authority shall withdraw its appeal of the Court's March 21, 2013 order and waive any right to appeal in this case.

3. Upon the Plaintiff's counsel's receipt of the payment in accordance with paragraph 1 and the withdrawal of the appeal in accordance with paragraph 2, Mr. Barry shall release and discharge the Transit Authority and affiliated companies, subsidiaries, officers, employees, agents, representatives, and successors and assigns, and all persons acting with or on behalf of them, from all claims, liabilities, obligations, promises, agreements, actions, or causes of action, other costs or expenses, of any nature whatsoever related to or arising out of the facts and circumstances that are the subject of this action, and the Transit Authority shall file a Stipulation of Dismissal with the Court that the parties have signed.

4. This stipulation and order shall not be construed as an admission of liability by the Transit Authority, or an admission by the Transit Authority that Mr. Barry suffered any damages.

Dated: New York, New York  
May 6, 2013

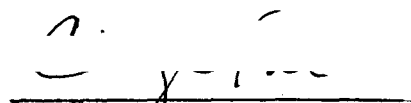


Mariko Hirose  
Christopher Dunn  
New York Civil Liberties Union  
125 Broad Street, 19<sup>th</sup> Floor  
New York, New York 10004  
Tel. (212) 607-3322  
*Attorneys for Plaintiff*  
Ernest Steve Barry



Paige Graves  
Richard Schoolman  
Office of the General Counsel  
New York City Transit Authority  
130 Livingston Street, 12<sup>th</sup> Floor  
Brooklyn, New York 11201  
(718) 694-4667  
*Attorneys for Defendant*  
New York City Transit Authority

SO ORDERED:

  
Magistrate Judge Cheryl L. Pollak

Dated: 5/8, 2013