

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANN STAUBER and the NEW YORK CIVIL
LIBERTIES UNION,

Plaintiffs,

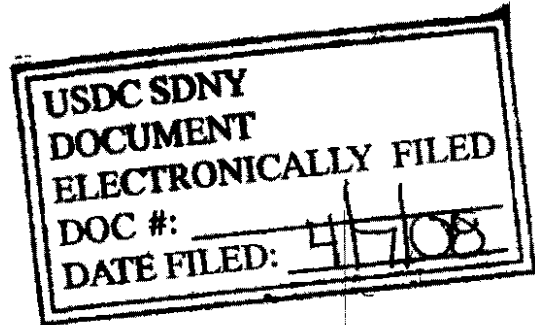
vs.

The CITY OF NEW YORK; RAYMOND W.
KELLY, Commissioner of the New York City
Police Department; and MARVINA C.
LAWRENCE (badge # 31467), an Officer
of the New York City Police Department,

Defendants.

STIPULATION OF SETTLEMENT
AND ORDER

03 Civ. 9162 (RWS)



JEREMY CONRAD and the NEW YORK
CIVIL LIBERTIES UNION,

Plaintiffs,

vs.

The CITY OF NEW YORK; RAYMOND W.
KELLY, Commissioner of the New York City
Police Department; JOHN DOES and JANE DOES
1-10, officers of the New York City Police
Department

Defendants.

03 Civ. 9163 (RWS)

JEREMIAH GUTMAN and the NEW YORK
CIVIL LIBERTIES UNION,

Plaintiffs,

vs.

The CITY OF NEW YORK; RAYMOND KELLY,
Commissioner of the New York City Police
Department;

Defendants.

03 Civ. 9164 (RWS)

WHEREAS, plaintiffs commenced these actions on November 19, 2003, in which they alleged violations of their constitutional, statutory, and common law rights and sought injunctive and other relief; and

WHEREAS, in conjunction with these actions plaintiffs applied to the Court for a preliminary injunction; and

WHEREAS, plaintiff Jeremiah Gutman died during the pendency of the action and the Estate of Jeremiah Gutman was substituted as plaintiff with Marilyn Gutman as executor; and

WHEREAS, plaintiff Ann Stauber has withdrawn her claim for damages; and

WHEREAS, the Honorable Robert W. Sweet conducted an evidentiary hearing on plaintiffs' application for a preliminary injunction; and

WHEREAS, the Honorable Robert W. Sweet issued a preliminary injunction (the "Order") requiring the New York City Police Department ("NYPD") to undertake the specific conduct described in the Order; and

WHEREAS, defendants appealed the Order to the United States Court of Appeals for the Second Circuit; and

WHEREAS, during the pendency of the appeal the parties negotiated a settlement of plaintiffs' claims for injunctive relief; and

WHEREAS, the appeal of the preliminary injunction pending before the United States Court of Appeals for the Second Circuit was withdrawn after a settlement was reached; and

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WHEREAS, plaintiffs have assigned their claims for attorney fees to their counsel, the New York Civil Liberties Union Foundation; and

WHEREAS, the parties desire to resolve all claims arising out of the allegations of the complaint; and

WHEREAS, defendants deny any liability arising out of plaintiffs' claims or that plaintiffs were entitled to any relief; and

WHEREAS, this stipulation does not constitute an admission of any of the facts alleged in the complaint, or that defendants engaged in any wrongful or unlawful conduct toward plaintiffs;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

1. The City of New York agrees to pay plaintiff Jeremy Conrad \$15,000 to settle his claim for damages arising out of his alleged physical injuries and false arrest, to pay Marilyn Gutman as executor of the Estate of Jeremiah Gutman \$10,000 for damages to settle the claim of Jeremiah Gutman arising out of alleged physical injuries alleged in the complaint; and to pay \$100,000 to the New York Civil Liberties Union Foundation to settle all plaintiffs' claims for attorneys' fees. These amounts are in full satisfaction of all claims against defendants alleged in the complaint, or related to the claims alleged in the complaint, including any claims for equitable or injunctive relief.

2. Defendants shall include the following provisions in the NYPD Patrol Guide:

a. A note will be inserted in the Patrol Guide following Section 213-11,

paragraph 19, stating:

Note: In cases in which the special event is a demonstration, information on expected street and sidewalk closings and information on how the public may access a demonstration site

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will be disseminated to the media and to event organizers and should, if possible, be posted on the Department's website. Officers assigned to such events should be given detailed instructions on such closings and points of access prior to assignment. Detail supervisors should also be advised of street closures and points of access and any changes of points of access which occur during the event and which were not previously anticipated and publicized. Officers assigned to such events shall provide information to the public at the event about available points of access.

b. Paragraph (3) will be added to paragraph 21(h) of Section 213-11 to state as follows:

“(3) Barrier configuration for demonstrations should not unreasonably restrict access to and participation in the event. For example, attendees should be permitted to leave a barriered area at any time. In addition, if crowd conditions and other circumstances permit, participants should be permitted to leave and return to the same area. Sufficient openings in the barricades should be maintained for purpose of permitting attendees to leave expeditiously and return to the event as described in this paragraph.”

c. The words “bullhorns and sound equipment” will be added to the list of equipment specified in paragraph 20 of Patrol Guide section 213-11.

3. Defendants shall amend the Mounted Unit Manual to include the following:

“Where the use of the Mounted Unit becomes necessary for crowd control purposes, incident commanders are reminded that if Mounted officers are deployed for such purpose it is important to ensure that a crowd or group to be dispersed has sufficient avenues of escape and/or retreat available to them and has had a reasonable chance to disperse.”

4. Within 30 days of the entry of this Stipulation and Order, the defendants shall notify all borough commanders in writing of the revisions specified in paragraphs 2 and 3.

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5. Within 120 days of the entry of this Stipulation and Order, the defendants shall disseminate to all commands an Interim Order effecting the revisions specified in paragraphs 2 and 3 and shall provide plaintiffs with a copy of that Interim Order.

6. In the normal course of business, the defendants shall amend the Patrol Guide and Mounted Unit Manual to include the revisions specified in paragraphs 2 and 3. Within ten days of amending the Patrol Guide and Mounted Unit Manual, respectively, the defendants shall provide the plaintiffs with copies of the amended Patrol Guide and Mounted Unit Manual.

7. The modifications set out in this Stipulation and Order to Patrol Guide Sections 213-11 paragraphs 19, 20, and 21(h) shall remain in effect and shall have the same general effect as all Patrol Guide provisions. In case of changed circumstances, the New York City Police Department (the "Department") may modify one or more of these paragraphs if reasonable law enforcement practice supports such a change. Under such circumstances the Department will provide plaintiffs' counsel with written notice of the proposed change(s), the basis for the change(s), and a thirty-day period in which to comment on them prior to their implementation.

8. During the time between the entry of this Stipulation and Order and the dissemination to all commands of the Interim order described in paragraph 4, the Department shall comply with the terms of the preliminary injunction, notwithstanding that the preliminary injunction will be dissolved on the execution of this Stipulation and Order.

9. Upon execution of this Stipulation and Order, the preliminary injunction entered by the Court on July 27, 2004 will be deemed dissolved and vacated.

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[Handwritten signature]

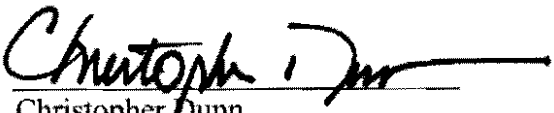
10. Upon execution of this Stipulation and Order, the plaintiffs' claims for damages and injunctive relief will be dismissed with prejudice.

11. Plaintiffs release defendants, their heirs, successors, designees and assigns from all claims for damages and injunctive relief arising out of the conduct alleged in the complaints, and for all claims for damages and injunctive relief which plaintiffs might have had against the defendants up to the execution of this Stipulation and Order.

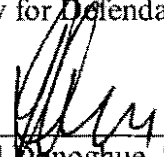
12. Plaintiffs will execute an affidavit of no liens in a form provided by defendants.

Attorney for Plaintiffs:

NEW YORK CIVIL LIBERTIES UNION
FOUNDATION

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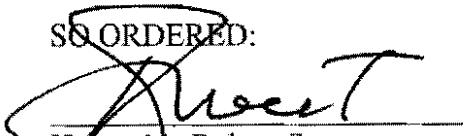
Attorney for Defendants:

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Dated: New York, New York
March 28, 2008

SO ORDERED:


Honorable Robert Sweet
United States District Judge
March 31, 2008