

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
UNITED SPINAL ASSOCIATION, a nonprofit
organization, DISABLED IN ACTION, a nonprofit
organization,

Plaintiffs,

- against -

BOARD OF ELECTIONS IN THE CITY OF NEW YORK
and JULIE DENT, in her official capacity as President of
the Board of Elections in the City of New York,

Defendants.
----- x

**STIPULATION OF
SETTLEMENT OF
PLAINTIFFS' CLAIM FOR
ATTORNEYS' FEES AND
COSTS**

10 CV 5653 (DAB)

WHEREAS, by Complaint dated July 26, 2010, (the "Complaint"), plaintiffs United Spinal Association and Disabled in Action (together, the "Plaintiffs"), commenced this action alleging that defendants were in violation of the Americans with Disabilities Act and the Rehabilitation Act by failing to provide fully accessible poll sites to persons registered to vote within the City of New York;

WHEREAS, this Court granted judgment in favor of plaintiffs pursuant to Rule 56 of the Federal Rules of Civil Procedure;

WHEREAS, said judgment was sustained on appeal to the United States Court of Appeals for the Second Judicial Circuit;

WHEREAS, the parties and their respective counsel wish to resolve the remaining issue of Plaintiffs' claim for attorneys' fees and costs in this action without further proceedings;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, with the Court retaining continuing jurisdiction regarding enforcement and compliance with the Court's orders dated August 8, 2012 (Dkt. No. 105), October 18, 2012 (Dkt. No. 119), and May 13, 2013 (Dkt. No. 130), and without costs, expenses, or fees in excess of the amount specified in paragraphs "2" and "3" below.

2. The City of New York hereby agrees to pay Plaintiffs, the sum of \$1,800,000, by check made payable to Disability Rights Advocates, one of the attorneys for Plaintiffs, in full and final satisfaction of all monetary claims that were or could have been raised in this action, including claims for costs, expenses and attorney fees. Plaintiffs reserve their rights to recover reasonable fees and costs for monitoring and enforcing the terms of the Court's orders dated August 8, 2012 (Dkt. No. 105), October 18, 2012 (Dkt. No. 119), and May 13, 2013 (Dkt. No. 130).

3. In consideration for payment of these sums and other good and valuable consideration described herein, plaintiffs and their counsel agree to release defendants, their successors and/or assigns, and all present or former officials, employees, representatives, and/or agents of the Board of Elections in the City of New York, and the City of New York (collectively, the "Released Parties"), from any and all claims, liabilities, and causes of action that were or could have been asserted by plaintiffs and/or their counsel against any of the Released Parties arising out of or related to the events and/or occurrences alleged in the complaint in this action, including all claims for attorney's fees, expenses, and costs. This release does not prevent Plaintiffs from asserting claims related to enforcement of the Court's orders

dated August 8, 2012 (Dkt. No. 105), October 18, 2012 (Dkt. No. 119), and May 13, 2013 (Dkt. No. 130).

4. In the event that any taxing authority or a court determines that the payment set forth in paragraph "2" herein made to plaintiff by the City of New York and/or the Board of Elections in the City of New York is subject to personal income tax, any taxes, interest or penalties owed by plaintiff, such tax, interest, and/or penalties shall be the sole responsibility of plaintiffs and/or their counsel.

5. Plaintiffs and their counsel shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph 3 above, being substantially in the forms annexed hereto as Exhibit A. The payment set forth above is subject to and conditioned on delivery of such documents to defendants' undersigned attorneys.

6. Plaintiffs will have the sole responsibility to satisfy any lien or claim, whether known or unknown, asserted against the settlement proceeds or arising from the settlement. If any lien, claim or action is brought against any defendant arising from the settlement or asserted against the settlement proceeds, plaintiffs will defend, indemnify and hold harmless all defendants and the related entities, agents, servants, faculty, trustees and employees of each of them.

7. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations

or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

8. Plaintiffs make no claim of or for vicarious liability against any other party, whether named or unnamed, for any acts or omissions of the defendants or their related entities, agents, servants, faculty, and employees alleged in the Complaint. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York and/or the Board of Elections in the City of New York.

9. This Stipulation contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
February 4, 2015

DISABILITY RIGHTS ADVOCATES
Attorney for Plaintiffs
40 Worth Street
10th Floor
New York, New York 10013
(212) 644-8644

By: 

Christine Chuang

New York, New York
February 4, 2015

ZACHARY W. CARTER
Corporation Counsel
of the City of New York
Attorney for Defendants
100 Church Street, Room 2-126
New York, N.Y. 10007
(212) 356-7087

By: 

Stephen Kitzin
Assistant Corporation Counsel

CUTI HECKER WANG LLP

Attorney for Plaintiffs

305 Broadway

New York, New York 10007

(212) 620-2600

By: Mariann Wang
Mariann Meier Wang

THE LAW OFFICE OF

KEVIN MINTZNER, P.C.

Attorney for Plaintiffs

1350 Broadway

Suite 1400

New York, New York 10018

(646) 843-8180

By: _____
Kevin Mintzner

UNITED SPINAL ASSOCIATION

By: _____
James Weisman
Senior Vice President
and General Counsel

DISABLED IN ACTION

By: _____
Jean Ryan
Vice President – Public Affairs


CUTI HECKER WANG LLP

Attorney for Plaintiffs
305 Broadway
New York, New York 10007
(212) 620-2600

By: _____
Mariann Meier Wang

**THE LAW OFFICE OF
KEVIN MINTZNER, P.C.**

Attorney for Plaintiffs
1350 Broadway
Suite 1400
New York, New York 10018
(646) 843-8180

By:  _____
Kevin Mintzner

UNITED SPINAL ASSOCIATION

By: _____
James Weisman
Senior Vice President
and General Counsel

DISABLED IN ACTION

By: _____
Jean Ryan
Vice President – Public Affairs

CUTI HECKER WANG LLP

Attorney for Plaintiffs
305 Broadway
New York, New York 10007
(212) 620-2600

By: _____
Mariann Meier Wang

**THE LAW OFFICE OF
KEVIN MINTZNER, P.C.**

Attorney for Plaintiffs
1350 Broadway
Suite 1400
New York, New York 10018
(646) 843-8180

By: _____
Kevin Mintzner

UNITED SPINAL ASSOCIATION

By: _____
James Weisman
Senior Vice President
and General Counsel

DISABLED IN ACTION

By:  _____
Jean Ryan
Vice President - Public Affairs

CUTI HECKER WANG LLP

Attorney for Plaintiffs
305 Broadway
New York, New York 10007
(212) 620-2600

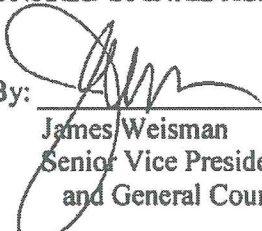
By: _____
Mariann Meier Wang

**THE LAW OFFICE OF
KEVIN MINTZNER, P.C.**

Attorney for Plaintiffs
1350 Broadway
Suite 1400
New York, New York 10018
(646) 843-8180

By: _____
Kevin Mintzner

UNITED SPINAL ASSOCIATION

By:  _____
James Weisman
Senior Vice President
and General Counsel

DISABLED IN ACTION

By: _____
Jean Ryan
Vice President – Public Affairs

SO ORDERED


DEBORAH A. BATTS 3/10/15
UNITED STATES DISTRICT JUDGE