

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DYLAN PITCHER; ALEXIS ROE; HANS DANIEL ROSSO KERN and MICHAEL JOHNSON,

Plaintiffs,

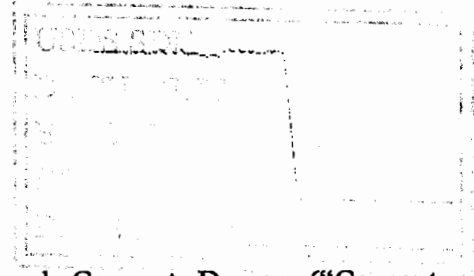
vs.

DUTCHESS COUNTY BOARD OF ELECTIONS, ERIK J. HAIGHT, as Commissioner of the Dutchess County Board of Elections, and FRANCES A. KNAPP, as Commissioner of the Dutchess County Board of Elections,

Defendants.

**Civil Action No. 12-cv-8017 (KMK)**

**STIPULATION OF SETTLEMENT  
AND CONSENT DECREE**



WHEREAS, this Stipulation of Settlement and Consent Decree ("Consent Decree") resolves the dispute between Plaintiffs Dylan Pitcher, Alexis Roe, Hans Daniel Rosso Kern, and Michael Johnson (collectively, the "Plaintiffs"), and Defendants Dutchess County Board of Elections, Erik J. Haight, as Commissioner of the Dutchess County Board of Elections ("Defendant Haight"), and Frances A. Knapp, as Commissioner of the Dutchess County Board of Elections ("Defendant Knapp") (Defendant Dutchess County Board of Elections, Defendant Haight and Defendant Knapp shall be referred to collectively as "Defendants") (Plaintiffs and Defendants shall be referred to collectively as the "Parties");

WHEREAS, Plaintiffs filed this putative class action on October 31, 2012, pursuant to 42 U.S.C. § 1983, seeking injunctive and declaratory relief, on behalf of themselves and other similarly situated students from Bard College, Marist College, and The Culinary Institute of America, alleging violations of their rights under the First and Fourteenth Amendments of the U.S. Constitution because the Dutchess County Board of Elections failed to process and effectively rejected Plaintiffs' New York State Voter Registration Forms on the basis that their completed forms did not include a dormitory name and/or room number;



WHEREAS, on November 5, 2012, following oral argument and an evidentiary hearing, the Court granted a preliminary injunction ordering Defendants to register those students from Bard College, Marist College, and The Culinary Institute of America whose voter registration applications had been rejected during the period from November 9, 2011 through November 4, 2012 because the New York State Voter Registration Form which they submitted did not set forth the name of the dormitory, and/or the room number within that dormitory, in which they resided;

WHEREAS, to avoid protracted and costly litigation, the Parties have conferred in good faith and agreed that this lawsuit should be resolved through the terms of this Consent Decree as provided for herein, without any admission as to the Parties respective claims or defenses;

WHEREAS, the Court has reviewed this Consent Decree and has concluded that it is appropriate for the Court to enter this Consent Decree to resolve all matters in dispute in this action as provided for therein.

NOW, THEREFORE, with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED AND DECREED as follows:

1. The Parties waive any requirement for a more specific or detailed order which may be imposed by Rule 65(d) of the Federal Rules of Civil Procedure, other statutory authority, or common law.
2. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, the Dutchess County Board of Elections and each of its officers and employees who have actual notice of this Consent Decree shall be permanently enjoined and prohibited from rejecting an application for registration from a student at Bard College, Marist College, or The Culinary Institute of America who resides on campus at such institution solely on the basis that the New York State Voter

Registration form submitted by such student does not set forth the name of the dormitory, and/or the room number within that dormitory, in which the student resides.

3. The enforcement of this order is not limited to the four named Plaintiffs; rather, this order will be enforceable by any student from Bard College, Marist College or The Culinary Institute of America who is aggrieved by the failure on the part of the Dutchess County Board of Elections to adhere to the terms of this Consent Decree.

4. The foregoing notwithstanding, the Dutchess County Board of Elections, its officers and employees shall not be prohibited by this Consent Decree from rejecting an application for registration from a student at Bard College, Marist College or The Culinary Institute of America pursuant to New York State election law if:

a. The New York State Voter Registration Form, designed by the State Board of Elections pursuant to New York Election Law Section 5-210(5), is changed so that it expressly requires the applicant to specify a dormitory name and/or room number; or

b. The student provided an address on the New York State Voter Registration Form that is not sufficient for the Dutchess County Board of Elections to communicate with such student as evidenced by the fact that a communication mailed by the Board of Elections to the student at that address was returned as undeliverable.

5. In the event the campus of Bard College, Marist College or The Culinary Institute of America is divided into two or more election districts, the Dutchess County Board of Elections or any of its officers or employees may:

a. Require that each student who is a resident on that campus and who has registered to vote provide the name of the dormitory and the room number within that dormitory, so long as the Dutchess County Board of Elections provides the student with adequate notice of this new requirement; and only after such notice is given, may the Dutchess County Board of Elections put in inactive status a student's registration if the student fails to provide such information within 60 days;

b. Reject the application for registration of any applicant for voter registration after such campus is so divided if the applicant does not identify the dormitory, and the room number within that dormitory, in which he or she resides, after the applicant is given adequate notice of the deficiency and the applicant does not cure the deficiency at least 2 business days before the next election date.

6. The Dutchess County Board of Elections will pay to the attorneys for Plaintiffs, within 90 days of the date of entry of the Consent Decree, the sum of \$37,237.50, in full satisfaction of Plaintiffs' claim for counsel fees and costs and disbursements pursuant to 42 U.S.C. §1988. The Court further approves, on consent of the parties, the payment by the Dutchess County Board of Elections of attorneys' fees to Richard Wolf, Esq., attorney for Commissioner Knapp, in the amount of \$2,797.50, and to Wilson Elser Moskowitz Edelman & Dicker LLP, attorneys for Commissioner Haight, in the amount of \$ 18,000.00.

7. The Court shall retain jurisdiction over this action and over the Parties for the limited purpose of the enforcement of the terms of the Consent Decree.

8. The Dutchess County Board of Elections shall provide a copy of this Consent Decree to each and every officer and employee of the Dutchess County Board of Elections, whose job function in any way relates to the process of registering voters.

9. The consent of the Defendants to this Consent Decree is conditioned upon the approval by the County of Dutchess of the payment of the Plaintiffs' attorneys' fees as provided for in this Consent Decree. Within 10 business days of this Consent Decree being entered, the Defendants will request the County's approval for such payment and for an appropriation of sufficient funds for that purpose. In the event that the County declines to grant such approval or make such appropriation, or the County fails to act on the request for such approval or appropriation within 90 days of the date on which this Consent Decree is entered, this Consent Decree shall be null and void and of no further effect, and the Plaintiffs' shall have 30 days to serve an amended complaint. This period shall run from notification by counsel for Defendant Haight of the County's decision or the County's failure to act." In the event that the

County agrees to grant such approval or make such appropriation, the Complaint is dismissed with prejudice and the Consent Decree constitutes the full and final adjudication on the merits of any and all claims Plaintiffs have made or could have made in this action.

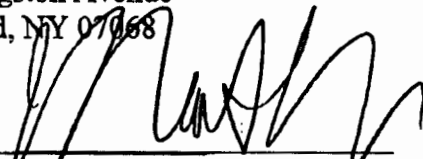
CONSENTED TO:

**Attorneys for Plaintiffs**  
**Dylan Pitcher, Alexis Roe, Hans**  
**Daniel Rosso Kern, Michael Johnson**

Dated: Roseland, New Jersey  
May 10, 2013

**LOWENSTEIN SANDLER LLP**  
65 Livingston Avenue  
Roseland, NY 07068

By:

  
Matthew M. Oliver, Esq.

Dated: New York, New York  
May \_\_, 2013

**NEW YORK CIVIL LIBERTIES**  
**UNION FOUNDATION**  
125 Broad Street, 19<sup>th</sup> Fl.  
New York, NY 10004

By:

Arthur Eisenberg, Esq.

Dated: Poughkeepsie, New York  
May \_\_, 2013

**Attorneys for Defendant**  
**Dutchess County Board of Elections**

**COUNTY OF DUTCHESS**  
**DEPARTMENT OF LAW**  
22 Market Street  
Poughkeepsie, NY 12601

By:

Keith P. Byron, Esq.

County agrees to grant such approval or make such appropriation, the Complaint is dismissed with prejudice and the Consent Decree constitutes the full and final adjudication on the merits of any and all claims Plaintiffs have made or could have made in this action.

CONSENTED TO:

**Attorneys for Plaintiffs**  
**Dylan Pitcher, Alexis Roe, Hans**  
**Daniel Rosso Kern, Michael Johnson**

Dated: Roseland, New Jersey  
May \_\_, 2013

**LOWENSTEIN SANDLER LLP**  
65 Livingston Avenue  
Roseland, NY 07068

By: \_\_\_\_\_  
Matthew M. Oliver, Esq.

Dated: New York, New York  
May 9, 2013

**NEW YORK CIVIL LIBERTIES**  
**UNION FOUNDATION**  
125 Broad Street, 19<sup>th</sup> Fl.  
New York, NY 10004

By: Arthur Eisenberg  
Arthur Eisenberg, Esq.

Dated: Poughkeepsie, New York  
May \_\_, 2013

**Attorneys for Defendant**  
**Dutchess County Board of Elections**

**COUNTY OF DUTCHESS**  
**DEPARTMENT OF LAW**  
22 Market Street  
Poughkeepsie, NY 12601

By: \_\_\_\_\_  
Keith P. Byron, Esq.

Dated: White Plains, New York  
May 10, 2013

**Attorneys for Defendant**  
**Erik J. Haight, as Commissioner of**  
**Dutchess County Board of Elections**

**WILSON ELSEER MOSKOWITZ**  
**EDELMAN & DICKER LLP**  
3 Garrett Drive  
White Plains, NY 10604-3407

By: *Robert A. Spolizino*  
Robert A. Spolizino, Esq.

Dated: Poughkeepsie, New York  
May \_\_, 2013

**Attorney for Defendant**  
**Frances A. Knapp, as Commissioner of**  
**Dutchess County Board of Elections**

**RICHARD B. WOLF, ESQ.**  
510 Haight Avenue, Suite 202  
Poughkeepsie, NY 12603

By: \_\_\_\_\_  
Richard B. Wolf, Esq.

SO ORDERED:

\_\_\_\_\_  
Honorable Kenneth M. Karas, U.S.D.J.

Dated: May \_\_, 2013

Dated: White Plains, New York  
May \_\_, 2013

**Attorneys for Defendant**  
**Erik J. Haight, as Commissioner of**  
**Dutchess County Board of Elections**

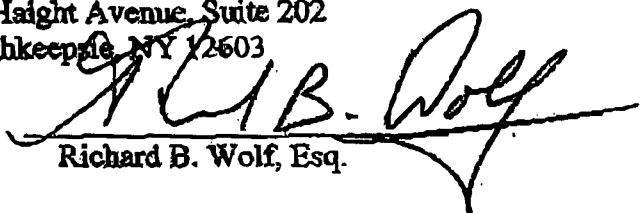
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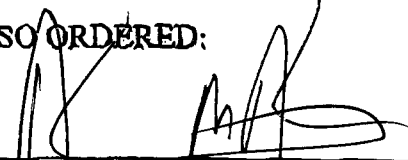
By: \_\_\_\_\_  
Robert A. Spolzino, Esq.

Dated: Poughkeepsie, New York  
May 9, 2013

**Attorney for Defendant**  
**Frances A. Knapp, as Commissioner of**  
**Dutchess County Board of Elections**

**RICHARD B. WOLF, ESQ.**  
510 Haight Avenue, Suite 202  
Poughkeepsie, NY 12603

By:   
Richard B. Wolf, Esq.

SO ORDERED:  
  
\_\_\_\_\_  
Honorable Kenneth M. Karas, U.S.D.J.

Dated: May 13, 2013