

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
Roy Den Hollander,

Plaintiff on behalf of himself and all others  
similarly situated,

-against-

Docket No.  
10 CV 9277  
(LTS)(HBP)(ECF)

**AFFIDAVIT IN  
SUPPORT OF MOTIONS  
TO VACATE AND AMEND**

Members of the Board of Regents of the University of the State of  
New York, in their official and individual capacities, *et al.*

Defendants.  
-----X

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF NEW YORK    )

I, Roy Den Hollander, an attorney admitted to practice before this Court and a named  
plaintiff, being duly sworn, depose, and say:

1. I have first-hand knowledge of the facts and circumstances surrounding this case  
and the matters presented in this affidavit.

2. The Complaint in this action, *Den Hollander II*, alleged that “Feminism” is a  
religion and, therefore, it is a violation of the Establishment Clause for New York State’s  
Regents and Department of Education to require all colleges and universities to conform their  
programs, whether educational or otherwise, to Feminism and to use State taxes to enforce such  
conformity.

3. The Complaint also alleged that the U.S. Department of Education (USDOE)  
violates the Establishment Clause by providing funding to the New York State Regents and  
Department of Education that is used, along with State taxes, to enforce the State’s *Equity for*

*Women in the 1990s, Regents Policy and Action Plan (1993)*, which requires higher education in New York State to adhere to the religion Feminism.

4. The Complaint further alleged that it was unconstitutional for the State and USDOE to provide Columbia University with public funding because some of those taxpayer dollars directly or indirectly support Columbia's Institute for Research on Women & Gender ("IRWG"), which propagates the religion Feminism.

5. The Complaint was filed December 13, 2010 and Judge Swain assigned the case to Magistrate Judge Pitman.

6. Defendants filed motions to dismiss, the plaintiff filed an opposition.

7. Magistrate Judge Pitman converted the motions to dismiss into motions for summary judgment. Defendants filed letters opposing the conversion of their motions to dismiss to summary judgment motions.

8. Plaintiff filed a declaration, counter statement to material facts, and memorandum in opposition to summary judgment.

9. Magistrate Judge Pitman issued a Report and Recommendation granting the defendants summary judgment by finding that collateral estoppel, or issue preclusion, applied because the issue of standing had been litigated as to plaintiff Den Hollander in the prior case *Den Hollander I*.

10. The plaintiff filed with District Court Judge Swain Objections to Magistrate Pitman's Report and Recommendation. The defendants filed responses to the plaintiff's Objections.

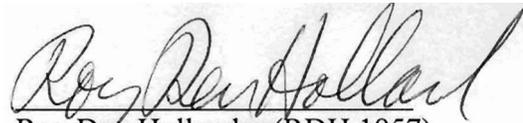
11. Judge Swain adopted Magistrate Judge Pitman's Report and Recommendation and held that "collateral estoppel bars Plaintiff's attempt to re-litigate his standing to bring an Establishment Clause claim . . . ." (Judge Swain's Order p. 6).

12. Following the entry of Judge Swain's Order, plaintiff found two New York State residents, both federal and State taxpayers, who were willing to add their names as plaintiffs in this suit.

13. As such, the plaintiff is making these motions to vacate Judge Swain's Order and amend the Complaint.

14. The Amended Complaint is attached as Exhibit A.

**WHEREFORE**, the plaintiff requests this Court to vacate its Order of October 31, 2011, allow leave to amend the complaint by adding the taxpayer plaintiffs Lieutenant Colonel (Retired) Michael G. Leventhal and Michael P. Schmitt, Esq., deleting certain allegations pertaining to student aid programs, deleting the request for class certification and such other relief as may be just and proper.

  
Roy Den Hollander (RDH 1957)  
Attorney and plaintiff  
545 East 14 Street, 10D  
New York, NY 10025  
(917) 687 0652

Sworn to before me on the  
19<sup>th</sup> day of November 2011

Notary Public 