

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ANNE POPE, *et al.*,

Plaintiffs,

-against-

1:11-cv-0736 (LEK/CFH)

COUNTY OF ALBANY; and ALBANY  
COUNTY BOARD OF ELECTIONS,

Defendants.

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**ORDER**

Before the Court is a Motion by non-party County Executive Daniel P. McCoy (“McCoy”) for an order to show cause why the Settlement Agreement approved by the Court on December 1, 2014, should not be invalidated in light of the putatively unauthorized consent to the Settlement Agreement by the Albany County Legislature. Dkt. Nos. 360 (“Settlement Agreement”); 363 (“Motion”). It has come to the Court’s attention that an express condition of the Settlement Agreement—that the Albany County Legislature vote to approve the Agreement by December 2, 2014—has not been met. See Settlement Agreement ¶ 23; Dkt. No. 366 (“Plaintiffs’ Letter Motion”). A failure to satisfy an express condition of an agreement “vitiates the contract.” Cambridge Realty Co. v. St. Paul Fire & Marine Ins. Co., 421 F. App’x 52, 53 (2d Cir. 2011). The Settlement Agreement is thus no longer in effect, and McCoy’s Motion is moot.

Accordingly, it is hereby:

**ORDERED**, that Daniel P. McCoy’s Motion (Dkt. No. 363) for an order to show cause is **DENIED as moot**; and it is further

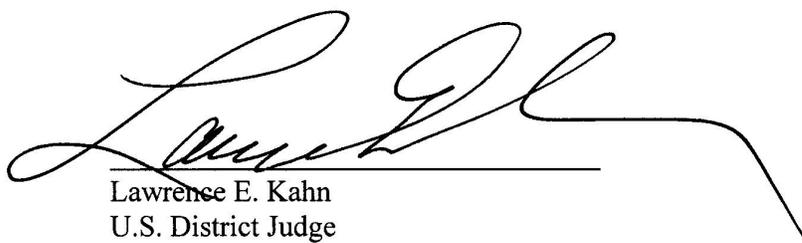
**ORDERED**, that Plaintiffs’ Letter Motions (Dkt. Nos. 364, 366) are **DENIED as moot**; and

it is further

**ORDERED**, that the Clerk of the Court serve Plaintiffs, the Albany County Legislature, and Daniel McCoy with this Order in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: December 03, 2014  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge