

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

EASTERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA,
Plaintiff,

and

JANET A. CALDERO, *et al.*
Plaintiff-Intervenors

-against-

NEW YORK CITY BOARD OF EDUCATION, *et al.*,
Defendants,

and

JOHN BRENNAN, *et al.*
Defendant-Intervenors.

Civ. No. 96-0374
(RML)

Declaration of Adele A. McGreal in
Support of Motion to Intervene

JOHN BRENNAN, *et al.*
Plaintiffs

-against-

JOHN ASHCROFT, *et al.*,
Defendants

and

JANET A. CALDERO, *et al.*
Defendant-Intervenors

Civ. No. 02-0256
(FB) (RML)

I, Adele A. McGreal, certify under penalty of perjury that to the best of my knowledge and recollection, the following is true and correct:

1. I am one of the individuals who benefited from the settlement agreement in *United States v. New York City Board of Education*. I am submitting this Declaration in support of the motion to intervene in that case and in *Brennan v. Ashcroft* being filed by Janet Caldero *et al.*

2. I reside at 53 Douglas Drive, Pawling, New York, and am employed at P.S. 58 by the New York City Department of Education as a Custodian Engineer Level I. Custodian Engineers Level I were formerly called Custodians, Custodian Engineers Level II were formerly called Custodian Engineers, and the Department of Education was formerly called the Board of Education. Throughout this Declaration, I will refer to the position of Custodian Engineer Level I as “Custodian” and Custodian Engineer Level II as “Custodian Engineer.” I will refer to the Department of Education as the “Board of Education.”

3. Prior to becoming a Custodian, I was employed by a Custodian as a fireman. The Custodian for whom I worked trained me in the skills necessary to become a Custodian.

4. On or about November 9, 1992, I became a provisional Custodian. Custodians supervise and are responsible for the physical operation, maintenance, repair, custodial upkeep and care of a public school building and its immediate grounds. I sought the job as a provisional Custodian because the Custodian I worked for told me that the New York City Board of Education was hiring provisional Custodians. The rumor I heard at the time was that women and minorities were being sought to fill these jobs. I was one of the first three women hired as provisional Custodians.

5. I was lucky that I heard that the Board of Education was seeking to hire provisional Custodians, as the positions were not widely publicized, and recruiting for the positions was done primarily by word-of-mouth.

6. Under the settlement agreement in *United States v. New York City Board of Education*, implemented in February of 2000, I received permanent employment status as a Custodian. I also received seniority retroactive to November 9, 1992, my start date as a provisional Custodian. This amounted to a retroactive seniority award of approximately seven years and four months.

7. As a permanent Custodian, I know that I cannot be moved from the school where I work into another school. Provisional Custodians are often moved from school to school; as a result, their salaries vary and they find it more difficult to do their jobs because the constant moves undermine their authority. As a permanent Custodian, I enjoy civil service protections that I did not have as a provisional Custodian. I am also eligible for temporary care assignments, in which I temporarily take care of other buildings that lack a Custodian and earn a portion of the Custodian's salary for that building. Since receiving permanent status I have received one temporary care assignment and have thus been able to supplement my salary. I expect to receive two more temporary care assignments very soon and will seek further assignments in the future.

8. As a permanent Custodian, I am eligible to bid to transfer to other public school buildings. Building placement determines my salary, since salary is based on the square footage of the building for which a Custodian has responsibility. As a permanent Custodian, I also accrue seniority, which enhances my competitiveness in the bidding

process, since when two or more individuals with the same job approval ratings bid for a single school, placement at the school is determined by seniority.

9. Since I became permanent, I have successfully bid to transfer to a larger school and have thus increased my salary. The retroactive seniority awarded under the settlement agreement may have been the deciding factor in obtaining this transfer. I plan to bid for additional transfers in the future. Whether I am successful in these future bids may turn on whether I have more seniority relative to other bidders.

10. Before I received permanent employment status under the settlement agreement, I took and passed the civil service examination to become a permanent Custodian. Thus, I was placed on the list of individuals eligible to be called for permanent employment as a Custodian.

11. Were I now to lose my permanent employment status, I do not know whether I would be permitted to remain employed as a Custodian. My understanding is that civil service laws do not permit provisional Custodians to be hired when there is a current eligibility list of individuals qualified for permanent appointment. Such a list exists today. If I lose my permanent status, I would presumably revert to provisional status. But, because provisional status employees cannot be appointed if an eligibility list of potential permanent status employees exists, I could be fired. Thus, I fear that if I lost the permanent employment status I received under the settlement agreement, I could lose my job. Alternatively, I could perhaps eventually be called off the eligibility list and given permanent status, but even if that were to occur, I would lose seniority and thus would be less able to compete for transfers to larger buildings with higher salaries.

12. Throughout the litigation of *United States v. New York City Board of Education*, I cooperated with and assisted the Department of Justice attorneys working on the case. I understood them to be working on behalf of my interests. I directed all questions about the case or information that I thought would be relevant to the case to them.

13. In early August 2002, I learned that the Department of Justice was no longer defending my award of retroactive seniority or the awards made to most of the other individuals under the settlement agreement, including almost all the women. No one from the Department of Justice or the Board of Education told me of this development. I was informed of this by Janet Caldero, a Custodian who had also received benefits under the settlement agreement.

14. After Janet Caldero informed me that the Department of Justice was no longer defending my award under the settlement agreement, I called the attorney representing the Department of Justice and left a message asking about the change in position. No one ever returned my call.

Executed this 17th day of October, 2002, in New York, New York.

Adele A. McGreal