

RUSING LOPEZ & LIZARDI, P.L.L.C.

6363 North Swan Road, Suite 151

Tucson, Arizona 85718

Telephone: (520) 792-4800

Facsimile: (520)529-4262

J. William Brammer, Jr. (State Bar No. 002079)

wbrammer@rllaz.com

Oscar S. Lizardi (State Bar No. 016626)

olizardi@rllaz.com

Michael J. Rusing (State Bar No. 006617)

mrusing@rllaz.com

Patricia V. Waterkotte (State Bar No. 029231)

pvictory@rllaz.com

Attorneys for Tucson Unified School District No. One, et al.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Roy and Josie Fisher, et al.,

Plaintiffs

CV 74-90 TUC DCB
(Lead Case)

v.

United States of America,

Plaintiff-Intervenor,

**DECLARATION OF SAMUEL
BROWN RE: OBJECTION TO
REPORT AND
RECOMMENDATION ON
OUTREACH, RECRUITMENT
AND RETENTION PLAN (ECF
1612)**

v.

Anita Lohr, et al.,

Defendants,

CV 74-204 TUC DCB
(Consolidated Case)

and

Sidney L. Sutton, et al.,

Defendants-Intervenors,

Maria Mendoza, et al.

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

v.

Tucson Unified School District No. One, et al.

Defendants.

Rusing Lopez & Lizardi, P.L.L.C.
6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800

1 I, Samuel Brown, declare under penalty of perjury that the following statements are
2 true:

3 1. I am above the age of 18 and am competent to make this Declaration.

4 2. I am the Desegregation Director for Defendant Tucson Unified School
5 District No. One (“TUSD”) in this action and have personal knowledge of the facts herein.
6 This declaration is based upon my personal knowledge, information and belief.

7 3. In August 2012, prior to the drafting of the Unitary Status Plan (“USP”), the
8 District undertook to hire a consultant to conduct statistical analyses to determine whether
9 the racial (African-American or Black) and ethnic (Hispanic) composition of TUSD’s
10 teachers and administrators is or was (or both) consistent with the relevant external labor
11 market.

12 4. At that time, I did not know of any consultants that had expertise in labor
13 market statistical analyses. Accordingly, I contacted Maree F. Sneed for a
14 recommendation. Maree Sneed is a partner with the law firm of Hogan Lovells in
15 Washington, D.C. who has an extensive national practice in the areas of education and civil
16 rights law, and has served as a consultant to TUSD in various instances, including with
17 respect to this action. Maree Sneed recommended Mary Dunn Baker, Ph.D. of the ERS
18 Group located in Tallahassee, Florida, whom she understood to be well respected and
19 highly regarded on labor analysis issues. Accordingly, TUSD spoke with Dr. Baker and
20 hired her.

21 5. On August 16, 2012, TUSD’s counsel asked Dr. Baker to conduct statistical
22 analyses to determine whether the racial (African-American or Black) and ethnic (Hispanic)
23 composition of TUSD’s Teachers and Administrators employed in 2010 and in 2012 is or
24 was (or both) consistent with the relevant external labor market. Dr. Baker prepared a final
25 analysis in September 2013, which included the most updated data available at the time, the
26 EE0-5 data for all states.

27 6. TUSD did not hire Dr. Baker because of any preconceived notion of what her
28 analysis or findings might be. When hiring the ERS Group, I did not know what Dr.

Rusing Lopez & Lizardi, P.L.L.C.
6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800

1 Baker’s findings would be, nor did I ever express any opinion or directive to her on what
2 the results should be and/or try to influence her analysis or conclusions in any manner.
3 Indeed, the purpose of hiring an independent and *outside* consultant was to obtain an
4 objective analysis in order for TUSD to develop an effective outreach, recruitment and
5 retention plan regarding its African American and Latino administrators and certificated
6 staff.

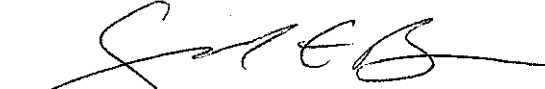
7 7. In drafting the USP, adopted by the Court on February 20, 2013, the parties
8 acknowledged in the language of the USP that TUSD already had hired a consultant to
9 perform a labor market analysis. *See* ECF 1450, USP § IV.2 (“the district hired an outside
10 consultant to undertake a Labor Market Analysis to determine the expected number of
11 African American and Latino administrators and certificated staff in the district, based on
12 the number of African American and Latino administrators and certificated staff in the
13 statue of Arizona, in a four-state region, a six-state region and the United States.”) The
14 Special Master was aware of the identity of the ERS Group at that time (and had been
15 aware since August 2012), and never questioned the objectivity of the ERS Group before
16 this R&R. The Special Master was consulted prior to the District’s selection of Dr. Baker
17 and indicated that he had looked up ERS and had no problem with TUSD retaining them.

18 8. The Special Master lists several concerns about the 2013-14 Committee (that
19 it does include any representatives of community organizations or corporations. The
20 District took *all* of the Plaintiffs’ comments and suggestions into account in selecting the
21 2014-15 Committee. The Special Master states that the 2013-14 Committee is “presumably
22 shaping recruitment and hiring policies and practices for the 2014-15 school year[.]” I have
23 discussed this matter with the Chief Human Resources Officer and I can confirm that the
24 newly selected Committee members will influence recruitment and retention efforts for SY
25 2014-15.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 16th day of June, 2014.


Samuel Brown

Rusing Lopez & Lizardi, P.L.L.C.
6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800