

1992 WL 528513

Only the Westlaw citation is currently available.
United States District Court, S.D. Ohio, Eastern
Division.

Ann BRUNET, et al., Plaintiffs,
and
Guy Tucker, et al., Plaintiff–Intervenors,
v.
CITY OF COLUMBUS, OHIO, et al., Defendants.

Nos. C2–84–1973, C2–91–0616.

|
Sept. 23, 1992.

Attorneys and Law Firms

Alexander M. Spater, Spater & Gittes, Columbus, Ohio,
for Brunet plaintiffs.

Richard A. Frye, Schwartz, Kelm, Warren & Rubenstein,
Columbus, Ohio, for Tucker plaintiffs.

Ronald J. O'Brien, City Atty., Columbus, Ohio, for City
of Columbus.

MEMORANDUM

GRAHAM, District Judge.

***1** At a status conference held on August 28, 1992, counsel for the Tucker plaintiffs indicated that the only additional remedial relief they were seeking, other than attorney's fees, was an order adjusting seniority for male firefighters who have been or will be hired pursuant to the 1990 Firefighters Examination. Counsel for the defendants expressed their agreement that an order adjusting seniority would be appropriate in light of this Court's orders of March 18, 1992 and July 24, 1992. Counsel for the Brunet plaintiffs expressed their disagreement with such an order.

The Court requested counsel for the Tucker plaintiffs and counsel for the defendants to submit a proposed order resolving this issue and they did so on September 10,

1992. On September 11, 1992, the Brunet plaintiffs filed a motion to reject defendants and Intervenor's Proposed Remedy and on September 18, 1992, the Tucker plaintiffs filed a memorandum in support of the proposed order.

The Court finds that an order adjusting the seniority of male and female firefighters hired pursuant to the 1990 Firefighters Examination is necessary and appropriate to provide the Tucker class of plaintiff with complete relief for the injury suffered as a result of the discrimination found in this Court's order of March 18, 1992. The Court found that the consent decree of February 27, 1989 violated the equal protection rights of male firefighters by imposing a gender based quota for firefighter applicants which was not narrowly tailored to remedy the prior discrimination against female firefighter applicants found in *Brunet*. It is apparent to the Court that but for the February 27, 1989 consent decree, the City would have used the results of the 1990 Firefighters Examination to hire male and female firefighters in rank order from one list. In its order of July 24, 1991, the Court found that the 1990 Firefighters Examination was valid for rank order hiring.

Firefighters Fox and Sachs, who are females, were hired in July 1991 according to the dictates of the February 27, 1989 consent decree. Their scores were lower than the male applicants who have been hired or are likely to be hired from the 1990 Firefighters Examination. The parties have all agreed that the employment of Fox and Sachs should not be terminated as part of the remedy herein, but the Tucker plaintiffs assert and the Court finds that seniority, based on hiring date, is a determining factor in many important employment decisions affecting the career of a firefighter throughout his or her tenure. But for the consent decree of February 27, 1989, the members of the Tucker class would have been hired before Firefighters Fox and Sachs and would have greater seniority than Firefighters Fox and Sachs. Thus, the Court finds that the order tendered by the Tucker plaintiffs and the defendants on September 10, 1992 is appropriate and the Court hereby adopts the same and the Clerk shall enter final judgment for the Tucker plaintiffs in accordance with that order and the Court's previous orders of March 18, 1992 and July 24, 1992.

***2** It is so ORDERED.

All Citations

Not Reported in F.Supp., 1992 WL 528513

