

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CRATON LIDDELL, et al.,

Plaintiffs,

vs.

BOARD OF EDUCATION OF THE CITY  
OF ST. LOUIS, MISSOURI, et al.,

Defendants.

No. 72-100-C(4)

H(2161) 83

MOTION TO OBJECT TO PROPOSED SETTLEMENT  
AND TO INTERVENE AS PARTY PLAINTIFFS

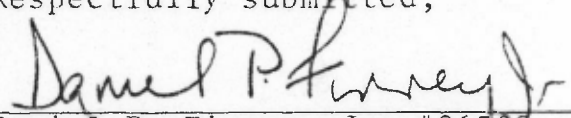
COMES NOW BEFORE THE COURT, the North St. Louis Parents and Citizens for Quality Education, an unincorporated association, and William Upchurch, Vivian Ali, and Dorothy Robins, members of the North St. Louis Parents and Citizens for Quality Education, parents of children attending the St. Louis City Public Schools, residents of north St. Louis city, and black members of the plaintiff class represented by the National Association for the Advancement of Colored People, hereinafter called "Objectors", and by their attorney move as follows:

1. To object to the terms of the Settlement of plaintiff class's claims, as proposed to this Court on February 22, 1983, on the grounds that said proposed Settlement of plaintiff class's claims is prejudicial, unfair and against the interests of the plaintiff class in toto, and the interests of the Objectors in particular;
2. For leave to intervene as party plaintiffs in order to protect those interests adversely affected by the proposed

Settlement, which interests involve questions of law and of fact which are common to the main action, including but not limited to the question of the effect of the proposed settlement on the quality of education on the schools in north St. Louis city;

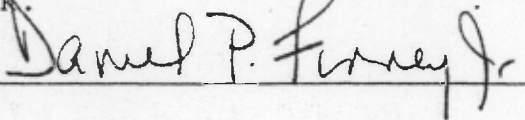
3. That Objectors be awarded costs and attorneys' fees; and for such other and further relief as is appropriate.

Respectfully submitted,

  
Daniel P. Finney, Jr. #26389  
Attorney for Objectors  
1015 Locust-Suite 1140  
St. Louis, MO 63101  
436-0600

CERTIFICATE OF SERVICE

On this 2 day of March, 1983, I certify that I will mail a copy of the foregoing document to all parties of record by placing a true copy of same in the U. S. Mail, postage prepaid and addressed to all counsel of record as soon as the document number is received from the United States District Clerk.



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EASTERN DIVISION

CRATON LIDDELL, et al.,

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vs.

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MEMORANDUM IN SUPPORT OF "OBJECTORS" MOTION

- A. The proposed settlement is prejudicial, unfair and against the interests of the plaintiff class as a whole and the interests of the Objectors in particular.

Objectors object to these aspects of the proposed Settlement:

1. The extent of busing of black children.
2. The unreciprocated, "one-way" busing of black children and not of white children.
3. The lack of safeguards against the defendant St. Louis County school districts' "siphoning off" the brightest and most talented black children from the schools in north St. Louis city, thereby stigmatizing and diluting the quality of the schools in north St. Louis city.
4. The unreciprocated financial burden imposed on the residents of the City of St. Louis presented by the property tax increase.
5. The questionable legality of the property tax to finance the Settlement which creates the likelihood of taxpayer challenges to the tax. Those challenges will inhibit, delay and possibly prohibit the use of said tax as a means of financing the Settlement. The Settlement is then without adequate financial resources.

6. the lack of enforcement mechanisms, coupled with the waiver of plaintiff class's litigation rights. Plaintiff class members will be required to depend on the defendants' good will.
7. the emphasis on magnet schools as opposed to improving schools available to the general student population.

These aspects of the proposed Settlement are prejudicial to the interests of the plaintiff class. Implementing these terms will disrupt the schools in north St. Louis city; implementing these terms will stigmatize the black students remaining in the predominantly black schools in north St. Louis city; finally, implementing these terms will require exorbitant administrative, parental, and financial resources on extensive admissions and transfer activities, rather than on educational efforts.

These Settlement terms are unfair in that the black children, parents and taxpayers of the city of St. Louis and of north St. Louis city will be required to assume the logistical and financial inconveniences and burdens of the Settlement to a far greater degree than the defendant parties.

The proposed Settlement is unfair in that it addresses only one of the vestiges of segregation--- racial imbalance in student populations. Another vestige of segregated educational systems is inferior facilities and resources for the minority community. This vestige of segregation is not adequately addressed by the Settlement. Worse, the Settlement emphasizes racial balance by means which will cause greater inferiority and deterioration of the educational facilities used by predominantly black student populations in north St. Louis city.



The Settlement is unfair in that its logic is fatally flawed. The proposed Settlement envisions that 15,000 black children will volunteer to attend schools far from their homes. At the same time, schools near their homes will be made so attractive that white children will volunteer to attend those schools. Yet, if those schools are so attractive that white children will want to attend, why will black children volunteer to leave those schools? This lack of logic in a major structural principle of the proposed Settlement makes the proposed Settlement completely unworkable.

The proposed Settlement is against the interests of the plaintiff class because it waives the class's right to litigation, without providing an alternative enforcement mechanism.

B. Objectors should be permitted to intervene now on the issues of concern to them.

Objectors ask the Court to permit them to intervene now as party plaintiffs, for the limited purpose of protecting those interests adversely affected by the proposed Settlement and by any future settlement and/or Court-ordered remedies. In particular, those interests are the quality of education in the predominantly black schools in north St. Louis city, and the need to ensure that any remedies and/or settlements adequately protect, preserve, and enhance the quality of education in those schools. This interest has been recognized by the Court of Appeals for the Eighth Circuit in its opinion of February 25, 1982, Liddell v. Board of Education, 677 F2d 626, 641-642 (C.A.8th-1982).

Objectors' motion is timely filed in that the Settlement proposed on

February 22, 1983, is a broad framework for future and more detailed remedial actions. As the broad framework is prejudicial, unfair and against the interests of the plaintiff class, any details predicated on it will be equally prejudicial, unfair and against the interest of the plaintiff class. Objectors' participation at this time as party plaintiffs will ensure that any future proposed settlements and/or remedies will not be so impaired. Objectors' participation as party plaintiffs will facilitate the negotiations and structuring of a settlement and remedies which protect the interests of all members of the plaintiff class, including but not limited to their own specific interests, as outlined above.

The Court's interest in an efficient use of its and the parties' resources will be furthered if Objectors are permitted to intervene as party plaintiffs now, on the issues of concern to them.

Objectors are not adequately represented by the current class representative the NAACP. Objectors are prepared to present evidence that they have been actively trying to inform the class representatives and other interested parties and participants of their concerns, but that these efforts have been unavailing. Objectors will present evidence that over the past two years, they have been in contact with the attorneys for the State of Missouri, and for various county school districts, with Shulamith Simon, Esq., attorney for the public interest, with the Court-appointed Committee for Quality Education, with the Desegregation Monitoring Committee, with D. Bruce LaPierre, Settlement Master, and with the NAACP and its lawyers, and with the Board of Education for the City of St. Louis. They have been active in the community of north

St. Louis, and their views have been widely publicized in the local newspapers, radio stations, and television shows. At all times, Objectors have consistently outlined their concerns about any settlement and/or remedies and have consistently represented their support in the black community in north St. Louis city. Despite these many and continued attempts to informally protect their interests, these attempts have been unsuccessful. Indeed, by Order of this Court, the class representatives and their attorneys have been prohibited from discussing the Settlement negotiations or the terms to which they were agreeing on behalf of the class and on behalf of the Objectors

Objectors aver that this evidence which they can present proves that their interests are not adequately represented by the class representative, the NAACP.

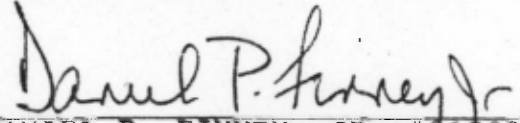
This Court is empowered to permit the Objectors to intervene as requested. As The Court of Appeals for the Ninth Circuit held in a similar case that

"...a small minority of the class members may not be asked to bear an unduly disproportional share of the ...burdens (of the settlement)...In addition, courts have affirmed the special responsibility placed upon the trial judge to protect the rights of the absentee class members...Broad discretion is granted to the trial judge, enabling him or her to respond fluidly to the varying needs of particular cases..."  
Mendoza v. United States 623 F.2d 1338-1344 (CA 9th-1980).

In addition, The Court of Appeals for the Eighth Circuit has observed that the interests of the black students who will remain in predominantly black schools is an appropriate subject for remedial and protective action by this Court. Liddell v. Board of Education, shp opinion dtd. February 25, 1982, op cit. at 35-36.

WHEREFORE, the Objectors respectfully request that the Court grant their Motions.

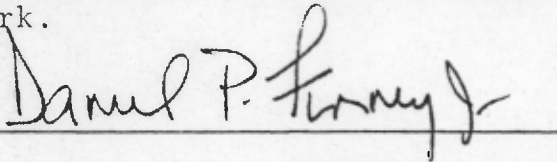
Respectfully submitted,



DANIEL P. FINNEY, JR. #46389  
Attorney for Objectors  
1015 Locust-Suite 1140  
St. Louis, MO 63101  
436-0600

CERTIFICATE OF SERVICE

On this 2 day of  
March m 1983, I certify  
that I will mail a copy of  
the foregoing document to  
all parties of record by  
placing a true copy of same  
in the U. S. Mail, postage  
prepaid and addressed to all  
counsel of record as soon as  
the document number is received  
from the United States District  
Clerk.





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United States District Court

Eastern District of Missouri

March 2, 1983

MEMORANDUM FOR CLERK

By leave of court the North St. Louis Parents  
and Citizens for Quality Education herewith file  
their Motion to Object to Proposed Settlement and  
to Intervene as Party Plaintiffs.

*Daniel P. Finney, Jr.*

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1015 Locust-Suite 1140  
St. Louis, MO 63101  
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Plaintiff  
Attorney's for  
Defendant