

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

UNITED STATES OF AMERICA,
Plaintiff,

vs.

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

and

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

and

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

and

PEDRO ARROYO, *et al.*,
Plaintiff-Intervenors.

ACTION I
No. 96-CV-0374 (FB) (RML)

JOHN BRENNAN, *et al.*,
Plaintiffs,

vs.

JOHN ASHCROFT, *et al.*,
Defendants.

ACTION II
No. 02-CV-0256 (FB) (RML)

RUBEN MIRANDA,
Plaintiff,

vs.

NEW YORK CITY DEPARTMENT OF EDUCATION,
Defendant.

ACTION III
No. 06-CV-2921 (FB) (RML)

ORDER

On the basis of the stipulation of the parties, it is hereby ORDERED:

1. In the event of layoffs, the seniority date to be used by the Board of Education for the following individuals, for the sole purpose of determining the order of layoffs, shall be:

a.	Pedro Arroyo:	October 8, 1992
b.	Jose Casado:	October 27, 1997
c.	Andrew Clement:	April 4, 1997
d.	Celestino Fernandez:	October 27, 1997
e.	Kevin LaFaye:	October 8, 1992
f.	Steven Lopez:	February 23, 2000
g.	Anibal Maldonado:	October 3, 1997
h.	James Martinez:	October 27, 1997
i.	Wilbert McGraw:	October 8, 1992
j.	Silvia Ortega de Green:	October 27, 1997
k.	Nicholas Pantelides:	October 27, 1997

2. If there are seniority date ties in determining the order of layoffs, the tiebreaker policy contained in the City of New York's Layoff Procedures Manual shall apply. The list number for tiebreaker purposes for Andrew Clement and Anibal Maldonado shall be their actual list numbers from the Exam 1074 civil service list.

3. If any of the beneficiaries listed in ¶ 1 is entitled to a veteran's preference or other layoff protection or adjustment authorized by law, *see, e.g.*, N.Y. Civ. Serv. Law §§ 80(1), 85(7) (McKinney 2006), such preference or adjustment shall not be superceded by this Order, and shall instead be applied to the date listed above.

4. Each beneficiary listed in ¶ 1 will forego an evidentiary hearing on "actual victim" status in this Court at this time. Should a higher court conclude that "actual victim" status is relevant to the lawfulness of any of the seniority benefits that these beneficiaries received under the Agreement for the purpose of obtaining transfers or temporary care assignments, each shall have the right to a hearing on "actual victim" status in this Court

on remand.

5. In the event of any remand by a higher court for a purpose that is related to the lawfulness of the seniority benefits received by the beneficiaries listed in ¶ 1, these stipulated dates shall no longer apply.
6. In the event of any remand by a higher court for a purpose that is not related to the lawfulness of the seniority benefits received by the beneficiaries listed in ¶ 1, the layoff-seniority dates listed above shall continue to apply and the beneficiaries covered by this Order shall not be entitled to an evidentiary hearing on “actual victim” status.

/s/ Esther Lander

Esther Lander
Attorney for Plaintiff United States of America

/s/ Lawrence J. Profeta

Lawrence J. Profeta
Attorney for Defendant New York City Board of Education

/s/ Matthew Colangelo

Matthew Colangelo
Attorney for the Arroyo Intervenors

/s/ Michael E. Rosman

Michael E. Rosman
Attorney for the Brennan Intervenors

/s/ Emily J. Martin

Emily J. Martin
Attorney for the Caldero Intervenors

SO ORDERED.

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
Date: _____