

1 Delora L. Kennebrew, Chief  
2 (GA Bar No. 414320)  
3 Aaron Schuham, Deputy Chief  
4 (DC Bar No. 461285)  
5 Robert L. Galbreath, Senior Trial Attorney  
6 (DC Bar No. 460398)  
7 United States Department of Justice  
8 Civil Rights Division  
9 Employment Litigation Section  
10 950 Pennsylvania Avenue, NW  
11 Patrick Henry Building, Room 4028  
12 Washington, DC 20530  
13 Telephone: (202) 353-9731  
14 Facsimile: (202) 514-1005  
15 Email: Robert.Galbreath@usdoj.gov

16 Attorneys for Plaintiff United States of America

17 **IN THE UNITED STATES DISTRICT COURT**  
18 **FOR THE DISTRICT OF ARIZONA**

19 UNITED STATES OF AMERICA, ) No. \_\_\_\_\_  
20 )  
21 Plaintiff, )  
22 )  
23 v. ) DEMAND FOR JURY TRIAL  
24 )  
25 TUCSON UNIFIED )  
26 SCHOOL DISTRICT, )  
27 )  
28 Defendant. )  
29 \_\_\_\_\_)

30 **COMPLAINT**

31 Plaintiff, the United States of America, alleges:

32 1. This action is brought on behalf of the United States to enforce Title  
33 VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* (“Title  
34 VII”).

**JURISDICTION AND VENUE**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

2. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1345.

3. Defendant, the Tucson Unified School District (“TUSD”), is a governmental body created pursuant to the laws of the state of Arizona and located within this judicial district.

4. The TUSD is a “person” within the meaning of 42 U.S.C. § 2000e(a), and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

5. Donna Guzman (“Guzman”) filed a timely charge of discrimination based on sex and national origin (Charge No. 35A-2008-00376C) against the TUSD with the Equal Employment Opportunity Commission (“EEOC”) on or about March 11, 2008.

6. Marcia Vela (“Vela”) filed a timely charge of discrimination based on sex and national origin (Charge No. 35A-2008-00378C) against the TUSD with the EEOC on or about March 11, 2008.

7. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charges of discrimination based on sex and national origin filed by Guzman and Vela, issued Letters of Determination finding that there is reasonable cause to believe the TUSD discriminated against Guzman, Vela, and other similarly-situated employees based on their sex and/or national origin in violation

1 of Title VII, and unsuccessfully attempted to conciliate the charges. The EEOC  
2 subsequently referred the matters to the United States Department of Justice.

3 8. All conditions precedent to the filing of suit have been performed or  
4 have occurred.

5 **CLAIM FOR RELIEF**

6 9. On or about January 3, 2000, Guzman, a Hispanic female, began  
7 employment as a custodian at the TUSD's Rincon High School/University High  
8 School ("RHS"). On or about January 30, 2004, Guzman became the lead  
9 custodian at RHS.

10 10. On or about November 8, 2004, Vela, a female who was married to a  
11 person of Hispanic origin and uses his surname, began employment as a custodian  
12 at RHS.

13 11. On or about April 4, 2005, Jack Veatch ("Veatch"), a white male,  
14 began employment as a custodian at RHS.

15 12. In or about October 2005, Veatch began to make inappropriate and  
16 discriminatory comments about female students and women, including such  
17 statements as "Look at that little slut" and "[women] are a waste of time," in the  
18 presence of Guzman and Vela. Guzman asked Veatch to refrain from making  
19 inappropriate and discriminatory comments and complained to management about  
20 Veatch's comments.

21 13. In or about March 2006, Veatch began to subject Guzman and Vela  
22 to a series of discriminatory comments based on their sex and/or national origin,

1 including statements such as “Mexicans are all stupid,” “lazy Mexican woman,”  
2 and “Why don’t you go back where you came from?” Veatch also made Guzman  
3 and Vela uncomfortable by appearing suddenly out of the shadows, staring,  
4 laughing and blocking their paths.

5 14. In or about March 2006, Veatch made similar discriminatory  
6 comments based on sex and/or national origin to other RHS custodial employees,  
7 including Veronica Leon (“Leon”), Santiago Miranda (“Miranda”) and Eddie  
8 Montano (“Montano”). Leon (female), Miranda (male) and Montano (male) are  
9 all Hispanic.

10 15. Veatch engaged in his discriminatory behavior frequently,  
11 sometimes on a daily basis.

12 16. Guzman complained about Veatch’s discriminatory behavior to RHS  
13 Assistant Principal Rosie Beetcher (“Beetcher”) on several occasions between  
14 March 2006 and August 2006. Guzman complained about Veatch’s  
15 discriminatory behavior to RHS Assistant Principal Kathryn Church (“Church”)  
16 on several occasions between August 2006 and June 2007. Despite these  
17 complaints, Veatch’s discriminatory behavior toward Guzman, Vela, Leon,  
18 Miranda and Montano continued during this time period.

19 17. In or about July 2007, Guzman, Vela, Leon, Miranda and Montano  
20 complained about Veatch’s discriminatory behavior based on sex and/or national  
21 origin to the TUSD’s Equal Employment Opportunity (“EEO”) Compliance  
22 Officer, Jennifer Forster (“Forster”). Forster conducted an investigation of the

1 complaints and determined that there was reasonable cause to believe Veatch had  
2 used national origin and sex-based epithets against his co-workers, including the  
3 terms “go back to Barrio Hollywood,” “stupid Mexican,” “taco-bender,” “bitch,”  
4 “slut” and “stupid woman” in violation of the TUSD’s anti-discrimination  
5 policies.

6 18. On the basis of Forster’s finding, on or about November 5, 2007,  
7 Church issued Veatch a letter of reprimand for his discriminatory treatment of  
8 Guzman, Vela and the other custodians.

9 19. On or about November 14, 2007, Veatch again verbally harassed  
10 Guzman and Miranda, yelling at them and calling them “lazy, stupid Mexicans.”  
11 Later that same day, Veatch trapped Guzman and Vela in a restroom they were  
12 cleaning, physically menacing them and refusing to let them leave.

13 20. Guzman, Miranda and Vela complained again to TUSD officials  
14 about Veatch’s behavior. On or about January 24, 2008, Church issued another  
15 letter of reprimand to Veatch regarding his behavior on or about November 14,  
16 2007 toward Guzman, Miranda and Vela.

17 21. Despite receiving written reprimands from the TUSD for his  
18 discriminatory behavior, Veatch continued to use slurs against Guzman, Vela,  
19 Leon, Miranda and Montano based on their sex and/or national origin, and to  
20 physically menace Guzman and Vela. Indeed, Veatch’s discriminatory behavior  
21 intensified such that Guzman and Vela became so fearful of Veatch that they

1 requested Miranda and Montano to escort them when they were required to take  
2 trash to the outside dumpster after dark.

3 22. On or about March 7, 2008, another RHS custodian complained to  
4 RHS Assistant Principal Kim Babeau ("Babeau") that Veatch had harassed him.  
5 Babeau sent Veatch home on administrative leave pending investigation of the  
6 harassment allegations.

7 23. On or about April 21, 2008, Babeau issued Veatch a pre-termination  
8 letter outlining a variety of complaints and reprimands against Veatch for  
9 harassment and unprofessional conduct on his part between April 7, 2007 and  
10 March 17, 2008. Shortly thereafter, Babeau terminated Veatch's employment  
11 with TUSD effective June 6, 2008.

12 24. The TUSD, through its RHS administration and EEO Compliance  
13 Office, was on notice that Veatch had engaged in the harassment of Guzman,  
14 Vela, Leon, Miranda and Montano based on their sex and/or national origin.  
15 However, the TUSD took no meaningful steps to correct or discipline Veatch, and  
16 Veatch continued to harass Guzman, Vela, Leon, Miranda and Montano until his  
17 employment was terminated.

18 25. The TUSD discriminated against Guzman, Vela, and similarly-  
19 situated employees Leon, Miranda and Montano on the basis of their sex and/or  
20 national origin, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a),  
21 among other ways, by:

1 (a) subjecting Guzman, Vela, Leon, Miranda and Montano to  
2 harassment based on their sex and/or national origin that adversely affected  
3 the terms, conditions and privileges of their employment with the TUSD;  
4 and

5 (b) failing or refusing to take appropriate action to prevent and promptly  
6 correct the effects of the harassment.

7 WHEREFORE, the United States prays that the Court grant the following  
8 relief:

9 A. enjoin the TUSD from failing or refusing to provide sufficient  
10 remedial relief to Guzman, Vela, and similarly-situated employees Leon, Miranda  
11 and Montano to make them whole for the losses they have suffered as a result of  
12 the discrimination against them as alleged in this Complaint;

13 B. enjoin the TUSD from failing or refusing to develop and implement  
14 appropriate and effective policies to address and prevent harassment based on sex  
15 and/or national origin;

16 C. award compensatory damages to Guzman, Vela, and similarly-  
17 situated employees Leon, Miranda and Montano to fully compensate them for the  
18 injuries caused by the TUSD's discriminatory conduct, pursuant to and within the  
19 statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §  
20 1981a; and

21 D. award such additional relief as justice may require, together with the  
22 United States' costs and disbursements in this action.

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  
29  
30  
31  
32

**JURY DEMAND**

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Dated this 1st day of August, 2011.

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

By:

/s/ Delora L. Kennebrew  
DELORA L. KENNEWBREW  
(GA Bar No. 414320)  
Chief

/s/ Aaron Schuham  
AARON SCHUHAM  
(DC Bar No. 461285)  
Deputy Chief

/s/ Robert L. Galbreath  
ROBERT L. GALBREATH  
(DC Bar No. 460389)  
Senior Trial Attorney  
United States Department of Justice  
Employment Litigation Section, PHB  
Civil Rights Division  
950 Constitution Avenue, NW  
Washington, DC 20530  
(202) 353-9731  
(202) 353-8961 (fax)



**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System. I further certify that I have caused a paper copy of the foregoing to be delivered, via overnight delivery, to the following recipient:

Samuel Brown, Esq.  
Legal Services Department  
Tucson Unified School District  
1010 East Tenth Street  
Tucson, AZ 85719

BY: /s/ Robert L. Galbreath  
ROBERT L. GALBREATH (DC Bar No. 460389)  
Robert.Galbreath@usdoj.gov  
United States Department of Justice  
Civil Rights Division  
Employment Litigation Section, PHB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(202) 353-9731  
(202) 514-1005 (fax)

Attorney for Plaintiff United States of America