

## **City Attacks Judge Instead of Racist FDNY**

When a government agency knows that it's wrong, but won't own up and change, it sometimes goes to ridiculous lengths to justify its policies. Enter the New York City Fire Department, which has been battling for decades to continue as a special preserve where racial discrimination in hiring looks to be the accepted norm.

In response to these practices, a lawsuit was filed, *United States v. City of New York*, which originated from two Equal Employment Opportunity Commission (EEOC) charges filed by the Center for Constitutional Rights on behalf of the Vulcan Society, the fraternal organization of black firefighters. The EEOC attempted an informal resolution of the dispute between the parties. However, conciliation attempts failed when the city would not come to the table. So the case was turned over to the U.S. Justice Department in 2004. It, too, found the charges legitimate. The FDNY refused to meet with them, too, and so the Justice Department filed the lawsuit in 2007.

### **Ruling against the FDNY**

After a trial in U.S. District Court, Judge Nicholas Garaufis ruled on October 4, 2011, that the New York City Fire Department's hiring practices are broadly discriminatory on the basis of race and ordered major reforms to be overseen by the court.

Now, after losing one fight after another, the department, backed by the Bloomberg administration, has reached the desperate point of accusing Judge Garaufis of being unfair and having a "one-sided assessment of the evidence." The city wants the judge removed from the case.

In his decision, Judge Garaufis accused Mayor Bloomberg of willfully ignoring the Fire Department's long history of hiring discrimination. The judge characterized the department as "a stubborn bastion of white male privilege."

These comments are neither unfair nor untrue. The facts support the judge. The Center for Constitutional Rights issued this statement: "As of October 2007, black and Hispanic firefighters comprised only 3.4 and 6.7 percent of the FDNY, respectively. The combined black and Hispanic population of New York City comprises over half its total population. New York City has the least diverse fire department of any major city in America; 57 percent of Los Angeles, 51 percent of Philadelphia and 40 percent of Boston firefighters are people of color." The FDNY had about 1,000 black and Latino firefighters out of a total of over 10,000. The numbers of minority firefighters in the FDNY have hardly moved over the years.

Somewhat amazingly, the city's Corporation Counsel attempts to minimize the FDNY's lack of diversity by saying that the city should be credited for increasing diversity in other city agencies besides the Fire Department. If the Police Department can hire black and Latino applicants in numbers appropriate to the city's general population, why can't the Fire Department? Diversity in other city agencies doesn't provide a justification for the FDNY's apparent status as a white preserve.

While this struggle has been fought out in the courts and the media, where has the city's leadership been, including its black leadership? All we get is silence. And we have yet to hear anything about this issue from those candidates who are jockeying for position in anticipation of next year's mayoral election, probably because the FDNY union has considerable political clout. How about some enterprising reporter asking them a question about the FDNY's hiring practices?

### **City's Failure to Act**

All the talk about removing the judge detracts from the main story: the city's failure to make changes in its hiring practices that end the agency's racially skewed makeup. The personal attacks on Judge Garaufis and the recusal motion to remove him are simply another symptom of the city's striking lack of cooperation in remedying the massive racial gap in one of its largest and most visible departments. It is more than understandable that the judge would be frustrated that years have gone by and time has been wasted in bickering when the real work of fixing the Fire Department has languished. Given the department's lack of aggressiveness, when will it be integrated, around the year 2050?

It is childish for the city to react to an unfavorable ruling by asking the U.S. Court of Appeals to kick the judge - who has worked diligently on this case for close to five years - to the curb, rather than simply appealing the adverse decision on the merits, if indeed there are any merits to be found in the city's legal position.

Community Service Society research on black and Latino participation in the city's labor market has made us particularly interested in the hiring practices of local government agencies. Over the past several years, our labor market studies have made it painfully clear that large segments of the city's population are consistently separated from employment opportunities across industries in both the public and private sectors. The reports detail the degree to which black men are shut out of the labor market as well as the extent to which black and Latino youth are neither in school nor employed.

Mayor Bloomberg is on record as envisioning a city where everyone will be given the chance to secure their future through meaningful employment. The mayor should follow through by working to make the FDNY open to all New Yorkers, rather than going along with the department's self-defeating stonewalling.

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