



NEW YORK CITY LAW DEPARTMENT  
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Press Release

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For Immediate Release

**SUPREME COURT, APPELLATE DIVISION, RULES UNANIMOUSLY  
IN FAVOR OF CITY IN GALLAGHER V. FDNY**

***ASSERTS CITY'S RIGHT TO ASSESS HIRING NEEDS AND DETERMINE IN WHICH MANNER DECISIONS SHOULD  
BE MADE IN CASES OF EMS WORKERS SEEKING TO BECOME FIREFIGHTERS***

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New York, June 12, 2003 – The Supreme Court, Appellate Division, First Department ruled unanimously today in favor of New York City in *Gallagher v. Fire Department of New York (FDNY) and Department of Citywide Administrative Services (DCAS)*. Reversing the trial court, the appellate court held that the Fire Department has the right to offer a promotional exam for the position of firefighter to emergency medical technicians (EMT's) and paramedics within the FDNY. It also dismissed the proceeding brought by the Uniformed Firefighters Association and the former administration.

In 1996, the EMS functions and personnel were transferred from the Health and Hospitals Corporation to the Fire Department. When the Fire Department assumed responsibility for the provision and coordination of pre-hospital emergency medical treatment and transport, it recognized that EMS workers performed work that was relevant to the work of firefighters. As such, in 1998 a promotional examination was offered for all EMS workers who wanted to become firefighters.

The court, in its decision, recognized the City's right to assess hiring needs and to determine in what manner such hiring decisions should be made. "We conclude that the petitioner has failed to show that the respondents acted arbitrarily or capriciously or that they violated the merit and fitness clause of the New York State Constitution," the judges wrote.

"We are pleased that the Court recognized the importance of allowing the City to give promotional exams to employees who have related experience," noted Drake Colley, a senior counsel in Appeals Division of the New York City Law Department, which litigated the case for the City. "The Fire Department determined that EMS workers have related experience, and the court ruling confirmed the validity of that conclusion."

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at [www.nyc.gov](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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