



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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For Immediate Release

**FEDERAL JUDGE REVERSES CITY COUNCILMAN'S VERDICT
AND GRANTS NEW YORK CITY'S MOTION TO DISMISS**

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New York, September 23, 2002 -- United States District Judge Shira A. Scheindlin today reversed a \$100,000 federal jury verdict rendered in June for New York City Councilmember James E. Davis. Davis had filed a lawsuit claiming that the New York City Police Department violated his First Amendment rights by retaliating against him for speaking against alleged police brutality in 1998.

Judge Scheindlin determined that Davis "failed to present sufficient evidence to support a finding that the New York City Police Department had a policy or custom of retaliating against its officers for engaging in First Amendment activities." Accordingly, Judge Scheindlin granted the City's motion to dismiss the case and the award.

James Lemonedes, a Senior Counsel of the New York City Law Department, litigated the case along with Assistant Corporation Counsel Donald Sullivan. Both attorneys are in the Labor and Employment Division. Lemonedes said he welcomed the judge's decision, noting: "The City agrees with the judge's determination that there was no policy or custom of retaliation, and we believe that justice has been served."

The case grew out of Davis' attempt to run for the State Assembly in 1998 while serving as a police officer. Section 1129 of the City Charter provides that any police officer who is nominated by any party for an elected office and who does not decline that nomination within ten days must be "deemed resigned." Accordingly, upon learning that Davis' name appeared on the ballot as the candidate for the Liberal Party in the 1998 election, the Police Department determined that he had effectively "resigned" from the Department, as required by the City Charter.

Despite acknowledging that his name was on the ballot and that he actively campaigned for public office, Davis insisted that he had not violated the Charter and had not resigned. Davis sought reinstatement and obtained a letter from the Liberal Party confirming that he had not been properly "designated" as a candidate by that party. By that time, however, the Police Department was investigating claims of misconduct by Davis in connection with the 1998 campaign. Accordingly, the Department refused to reinstate Davis until the investigation was completed.

In compliance with a state court order, the Department reinstated Mr. Davis with full back pay, including interest. Nevertheless, Davis initiated his federal suit seeking millions of dollars in damages claiming that he suffered emotional damages and injury to his reputation as a result of the termination and refusal to reinstate.

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