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Union Representing Uniformed EMS Officers Files Class Action Suit Against City of New York, Charging: Times Up For Systemic Pattern of Discrimination Against Women and Non-White Public Servants

- City “devalues critical work of EMS”, evades “fairness in promotional process” -

(New York, N.Y.)— Uniformed EMS Officers Local 3621 today filed a class action suit against the City of New York and FDNY, accusing them of longstanding discrimination of female and non-white uniformed public servants in promotions and raises.

Said **Vincent Variale, President of Local 3621**, “Our members deserve proper recognition for their work, irrespective of their race or gender, just like anyone else. The City is not served by promoting less-qualified applicants. A promotional process that does not include proper measurements for skill and knowledge allows for too much discretion. This has permitted an environment in which discrimination has flourished and resulted in qualified women and non-white members being underpromoted. The absence of a proper policy to ensure the best are promoted regardless of race or gender is a disservice to our members and the City at large.”

“For far too long, women and non-white members of EMS have been disadvantaged by the City’s refusal to comply with its obligation to ensure a fair promotional process for its members based on merit,” said **Yetta Kurland, from The Kurland Group, Attorney for Local 3621**. “The noticeable absence of a reliable or unbiased process to ensure merit-based promotions for Captain and above in the EMS has created institutional problems with gender disparity and a “bleaching” of the ranks. This adversely impacts not only those who are being passed over, despite their qualifications. It harms the EMS as a whole, and devalues the critical work of the Bureau.”

The action – filed in United States District Court for the Southern District of New York – names the City of New York, FDNY, and Department of Citywide Administrative Services (DCAS) on behalf of

Local 3621, which represents about 535 Uniformed EMS Officers, including Captains and Lieutenants. EMS is New York City's most diverse emergency workforce, populated by more women and people of color than any other emergency City workforce.

The discriminatory practice dates back more than two decades, after then-Mayor Rudolph Giuliani merged EMS into the FDNY in 1996. To address discrepancies in hiring, including bias, an in-house exam had been created to identify EMS promotions from Lieutenant to Captain. But this exam was scrapped after that merger.

Most emergency workforces – including the fire suppression side of the FDNY - follow a Civil Service process to ensure that hiring and promotional decisions are unbiased and based on merit and the fitness of candidates. However, the suit alleges, EMS uses only one Civil Service Exam for promotional opportunity, from Paramedic to Lieutenant. The remainder of the promotions are left to subjective interviews which allow for those evaluating applicants to choose individuals for reasons other than skill and merit.

“Currently, once a member of the EMS reaches the rank of Lieutenant, the remainder of their promotions will be determined based on a discretionary applications and interview process,” the suit maintains. “Conversely, on the Fire-side, Civil Service Exams are utilized for the promotions to (1) Lieutenant, (2) Captain, (3) Battalion Chief, (4) Deputy Chief, and (5) Fire Marshall. This promotional structure is the same for most, if not all, of the promotions in the emergency workforces in the City, except in the EMS.”

The promotional process is not standardized, but are instead subjective, where applicants submit packets, undergo interviews, and then are “scored”, allowing the City to vary criteria for promotions without any justification.

Further, Local 3621 members who risked their lives and been injured in the line of duty have been confronted with this as a basis to exclude them from promotions. “Rather than treat these individuals fairly and equally, or allow for reasonable accommodations to the on-the-job injuries and/or disabilities, members have been penalized for taking LODI [Line of Duty Injury] leave or other medical leave,” the suits notes. Additionally, applicants who were required to take leave pursuant to FMLA (Family and Medical Leave Act) for issues related to their service on or around September 11, 2001 have been penalized and denied a promotion for which they were qualified.

The suit further accuses the City of not properly notifying members of all promotional opportunities, not evaluating them properly, and of failing to address longstanding disparities despite complaints to the FDNY Equal Employment Opportunity (EEO) Office.

There are about 4,300 uniformed EMS personnel in the FDNY, of which an estimated 535 serve as Lieutenants or Captains. Approximately 24% of Lieutenants and 18% of Captains are female. This number drops even more as female members go up the ranks. The number of non-white Captains is approximately 35.5%, almost 10% less than the number of non-white Lieutenants, which is about 45%.

Two New York City unions representing EMS professionals previously have gone to New York State Supreme Court to demand that City Hall turn over records detailing salary information on City employees hired in certain titles since January 2009.

The representative plaintiffs in the suit are Local 3621, EMS Officers Union, DC 37, AFSCME, AFL-

CIO; Renae Mascol; and, Luis Rodriguez. Mascol, an African-American woman, has been a member of EMS for 25 years and a Lieutenant since 2010; she has applied to become Captain four times since 2014 and been told her performance is “excellent,” but has never been promoted.

Luis Rodriguez, who is Puerto Rican, has been a member of EMS since 1998 and a Lieutenant since 2010; he applied for promotion to Captain three times since 2015, but was told that his line-of-duty injuries, which forced him to take LODI, would hurt his promotional opportunities.

The suit asks the Court to issue an injunction preventing the City from continuing to violate City and State law; and to order the City to take action to ensure unlawful promotional practices are eliminated; implement a policy where promotions are based on merit; and appoint an independent monitor to review the city’s practices and policies and initiative and enforce remedial steps to cure the discriminatory promotional practices. It also requests an unspecified amount of back pay and compensatory and punitive damages.

While Local 3621 represents uniformed EMS officers, including Captains and Lieutenants, Local 2507 represents approximately 4,200 Uniformed Emergency Medical Technicians, Paramedics, and Fire Inspectors, who complete Civil Service exams to determine promotions. Both unions currently are involved in a separate legal action—in New York State Supreme Court—demanding the City release payroll records in response to repeated Freedom of Information (FOIL) requests.

The unions have asked for the names, races, genders, and salary information, job titles, and City and title start dates of City employees of the FDNY (including EMS) and New York City Sanitation Department from January 1, 2007 to present. Additionally, they requested FDNY records – dating back to 1996 – regarding cases initiated by its Bureau of Investigations and Trials and complaints filed with its Office of Equal Employment Opportunity.

The City has repeatedly denied the FOIL requests, citing as its excuse an “unwarranted invasion of personal privacy.”

Both the state and federal legal actions illustrate a longstanding pattern of bias discrimination against EMS workers based on race, ethnicity, gender, and disability – treating them as second-class citizens.

Said **Oren Barzilay, President of Local 2507**, “These are people who put their lives on the line every day. As we have unfortunately witnessed, EMS workers often encounter some of the most difficult challenges when they are responding to incidents, and yet they have served this City and its citizens with distinction. They deserve the same recognition and employment opportunities that other uniformed responders receive.”

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