

## In Diversity Case, City Rejects A Plan for Hiring Firefighters

By ELIZABETH A. HARRIS

The City of New York said Friday that it would not hire a new class of firefighters using proposals laid out by a federal judge, who had ruled that the test used to screen Fire Department applicants discriminated against African-Americans and Hispanics.

In a letter to the judge, Nicholas G. Garaufis of the Federal District Court in Brooklyn, Michael A. Cardoza, the city's corporation counsel, said all of the judge's five hiring methods involved race-based quotas that were "both illegal and unwise public policy."

The city's decision is the latest move in a long-running legal battle over how to diversify a firefighting force that remains overwhelmingly white.

Judge Garaufis ruled in August that the exam for firefighters used by the department discriminated against blacks and Hispanics, and he issued a temporary order prohibiting the city from hiring firefighters.

But in hearings before Judge Garaufis, the city said that if it was not able to hire a new class of firefighters, it would incur millions of dollars in overtime costs per month. The city wanted to hire about 300 firefighters.

In response, Judge Garaufis offered the city five methods it could use to hire a new class, which would, he wrote, "adequately balance the court's duty to eradicate illegal discrimination with the need to safeguard New York's citizens and firefighters."

Some of his proposals were meant to ensure that the class of firefighters that was hired would have the same percentage of blacks and Hispanics as the applicant pool that took the test. Other proposals would diversify the pool of those eligible to be hired by replacing the lowest-scoring white candidates with minority candidates who had lower scores.

"I'm a little bit surprised and confused by the city's response," said Darius Charney, a lawyer with the [Center for Constitutional Rights](#), which is representing the Vulcan Society, an organization of black firefighters. The group is suing the city, claiming discrimination.

"They've been saying all along they wanted to hire a new class as soon as possible," Mr. Charney said. "They were presented with a way to do that that complied with civil rights laws, and they chose not to. They're contradicting themselves."

The city, however, saw it differently.

"All of the options were quota based, and the city does not believe that that's good public policy," said Georgia Pestana, one of the city lawyers involved in the case.

Ms. Pestana said the city's need for new firefighters was "just as urgent as it was last month when we held the hearings." But, she added, "we decided it was important to stick to our principles; we'll figure out a way to deal with the economic hardship this is going to cause."

