

## Harassment Alleged Over Retired Gloversville Firefighter's Guard Service

A federal court trial begins Feb. 14 in Utica on claims from a retired Gloversville firefighter that he was passed over for promotion to captain and also frequently harassed because of his service in the Air National Guard.

Kyle Partlow, represented by Mathew B. Tully of the Albany firm of Tully Rinckey, filed suit in 2008 on the grounds that the city and its Fire Department violated the protections afforded service members under the federal Uniformed Services Employment and Re-employment Rights Act.

Partlow, who retired in 2008 after being passed over for captain despite scoring first on the civil service test, asserts he was mistreated after serving a year at Bagram Air Force Base in Afghanistan in 2004-05. The suit alleges he was harassed and singled out for duty inappropriate to his seniority, including assignment to the department's EMS rig, a task "usually assigned to the most junior members."

Under what the suit maintains was department protocol at the time, Partlow as the senior firefighter was entitled to drive Engine No. 1. Assignment to the EMS vehicle, the suit said, "was considered insulting and degrading and nothing more than an attempt to harass and embarrass." Tully, commenting Friday, said "we're extremely pleased to be able to shine the bright light of justice on the murky waters of this Fire Department. I am happy to be taking this case to trial." Tully described Partlow's case "as rock solid in many respects ... I'm pretty confident we're going to win this case."

The city's labor attorney, Bryan J. Goldberger, defending the case with Thomas M. Witz of the Albany firm of Wilson, Elser, Moskowitz, Edelman & Dicker, said "we don't believe this claim has merit."

In a pre-trial brief, Witz emphasized that Partlow "returned to his position as firefighter at the same rank, pay grade and with the same benefits he had prior to his military leave." Thus, Witz argues, the city did not violate provisions of federal law protecting service members. Partlow is seeking \$400,000 in compensation, a sum reflecting lost and future earnings. He retired after 20 years in the department.