



## **New Haven Supreme Court Case Does Not Cover New Ground**

The Supreme Court's 5-4 ruling regarding the New Haven firefighter promotional examination results is consistent with Title VII of the Civil Rights Act (CRA), despite what some are saying represents a new interpretation. The Court's ruling is a win for those who want selection decisions to be based on valid tests that measure knowledge, skills and abilities required for job performance. The City had thrown out the results of a firefighter promotional examination out of fear of litigation due to the finding of adverse impact against African-Americans. Adverse impact is defined as a substantially different rate of selection in hiring that works to the disadvantage of members of a race, sex, or ethnic group.

The City's decision to discard the results is yet another example of the all too frequent erroneous belief that adverse impact is equivalent to test bias or illegal discrimination. This underscores the critical need for employers to ensure their tests are valid and job relevant according to professional and legal requirements. Adverse impact alone only indicates that one group did not perform as well as another group on a test. It does not mean the test is not measuring what it is intended to measure or that it violates Title VII of the CRA. Employers' fear of litigation can be minimized by ensuring that tests are developed properly and validated by an expert in Industrial/Organizational Psychology. As reinforced by Justice Anthony Kennedy, "The city could be liable for disparate-impact discrimination only if the examinations were not job related" or the city failed to use a less discriminatory alternative selection procedure. The Supreme Court's decision will hopefully lead to greater awareness amongst test users around the true meaning of adverse impact and test bias.