

Firefighters Can File— and Win—a Civil Lawsuit for a Work-Related Injury



Firefighters and police officers willingly assume the risks inherent in their duties. They put their lives on the line every day as they serve and protect, and they are paid to do so. It is this concept, along with the misplaced notion that there are adequate Workers' Compensation laws available to those officers injured in the line of duty, that led to the adoption of California's Fireman's Rule, a rule that bars a public safety officer

from bringing a civil action against someone for an injury that occurred in the line of duty.

But the job of a public safety officer is not as clear-cut as the rule may imply, and often times work-related injuries occur due to the negligence or misconduct of others that were not the reason for the public safety officer's presence at the injury-producing event. The Fireman's Rule often imposed an injustice on

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- *Eugenia Steele*

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public safety officers because the person who created the dangerous condition suffered no consequence for his or her misconduct, and the public safety officer was significantly limited in economic recovery by the Workers' Compensation system.

In an attempt to rectify the injustice, the legislature enacted Civil Code Section 1714.9, which provides exceptions to the Fireman's Rule. The statute authorizes civil lawsuits by police and firefighters when:

- The injury producing harm was caused by an intentional act or
- When the conduct is not intentional but occurs after the person knows or should have known of the presence of the public safety officer
- When the conduct occurs after

the person knows or should have known of the presence of the public safety officer, and violates statutes, ordinances or regulations designed to protect the public safety officer.

The following are examples of Civil Code 1714.9 in action as it pertains specifically to firefighters.

- A firefighter slipped and fell on wet stairs during a fire safety inspection. The stairs did not have skid-resistant treads. The court held that slippery steps were not a danger inherent in the firefighter's activity, and the Fireman's Rule did not preclude him from bringing a lawsuit against the property owner.
- A firefighter suffered severe burns while fighting a warehouse fire. Because it was later discovered

that the cause of the fire was arson, a civil action could be taken against the arsonist.

- A firefighter responded to a chemical boil over at a plant. The owner informed the firefighter that the boil over did not involve toxic chemicals or materials and that there would be no danger in trying to contain it. These were negligent or intentional misrepresentations. The boil over did contain toxic substances to which the firefighter was exposed. The Fireman's Rule did not apply.

"Civil Code Section 1714.9 is a victory for public safety officers," says Eugenia Steele, a Personal Injury partner in the law firm of Gordon, Edelstein, Krepack, Grant, Felton & Goldstein, LLP (GEK). "The Fireman's Rule in its traditional form is an injustice to those who make great sacrifices to protect us. We are dedicated to fighting for the rights of the men and woman who put our safety and well-being front and center every day."

GEK provides free, confidential consultations for those considering legal representation in a Personal Injury or Workers' Compensation case. If you have any questions, please call us at 213-739-7000.



Pursuant to Labor Code Section 5432(a), making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.