

## **Reservist Compensated for Improperly Charged Leave**

The Merit Systems Protection Board (MSPB)

made a landmark ruling in that as many as 100,000 current and former federal employees, who served in the military reserves from 1994 through 2000, are entitled to receive compensation for which they were improperly charged due to their Reserve and/or National Guard military service. These employees may be compensated for up to nearly five weeks of leave. Collectively, this could result in federal civilian employees receiving as much as \$500 million dollars in compensation due to their prior military service.

In 2003, the Federal Courts ruled that the Office of Personnel Management (OPM) unlawfully computed how military leave was used from as early as 1980 until 2000 when the military leave computation policy was revised in 2004. OPM issued guidance which limited federal employees to recovering lost annual leave for only the last six years. This guidance was based on a 1994 law that prevents discrimination based on military service, Uniformed Services Employment and Reemployment Rights Act (USERRA)

. In it's ruling, the Board held that three federal employees who were attempting to recover leave time, lost due to OPM's unlawful policies during the 1980-2000 period, were allowed to recover well past the six years that was previously allowed. The Board has left open the question of whether federal employees could recover leave before 1994 until an Administrative Law Judge in San Francisco reviews that issue.

The Merit Systems Protection Board's

ruling is Significant in that federal employees who were improperly charged military leave on non workdays from 1994-2000 could individually be entitled to thousands of dollars in compensation by filing a complaint under applicable federal civil service laws rather than filing an administrative claim with their personnel offices. Well known federal civil service law attorney Mathew B. Tully of New York, who was reached while preparing for military deployment to Iraq stated the Board's ruling is one of the biggest wins both legally and financially for federal civil service employees who have served in the reserves and National Guard in the past one hundred years.

Prominent federal civil service law attorney Greg T. Rinckey who until the summer of 2004 was an active duty Army Judge Advocate General Corps (JAG) attorney, handled the case for the three federal employees who were seeking to recover leave before the Merit Systems Protection Board

. He noted the significance of this victory stating many estimate that this decision could cost the Federal Government well over \$500 million dollars in compensation and affect over 100,000 federal employees. The case placed Rinckey and his law firm up against the unlimited resources of the United States Department of Justice and some of the best civil service law attorneys employed by the federal government.

It is notable that Rinckey is providing his legal services at no cost to his clients. According to Rinckey. "I just don't think it is fair for these true American heroes to pay upfront legal fees when the Government violates the law by punishing them for serving in our Armed Forces." Congress agreed and has made a provision in the law that requires the government to pay Rinckey's firm all the associated fees and costs when decisions are made in favor of the client "These clients never pay us a penny out of their pockets for anything Rinckey added.

Rinckey and his law firm have pledged to help as many federal employees as possible receive compensation from the government at no cost to the employee. According to statistics from the Merit Systems Protection Board

, his firm, Tully Rinckey PLLC is the primary law firm that assisted hundreds of federal employees in their effort to recover lost annual and military leave during the past 18 months. His law firm has created a website to help federal employees collect everything they are entitled to at no cost to them. For more information. please visit [fedattorney.com](http://fedattorney.com)

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