

USERRA Offers Invaluable Protection for Reservists

With the deployment of hundreds of thousands of National Guard and reserve members in the past few years — and with more than 81,000 mobilized today — the Uniformed Services Employment and Reemployment Rights Act is a very important issue for anyone serving in a reserve component.

USERRA, enacted Oct. 13, 1994, was designed to expand on the Veterans' Reemployment Rights law, which can be traced back to 1940.

USERRA is about three times as long as the VRR law in terms of the number of words and sections. But the additional information provided in USERRA makes it easier to understand and apply; the greater detail creates far less ambiguity for both employees and employers.

The basic purpose of USERRA is to encourage non-career military service by making it easier for participants to enter and remain in the civilian work force while still in uniform. USERRA does this by penalizing employers who discriminate or deny benefits to uniformed service members, to anyone who applies to be a uniformed service member or to uniformed service veterans.

The term "uniformed service" refers to members of the Army, Navy, Air Force, Marine Corps and Coast Guard, both active-duty and reserve; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time (Title 32) duty; the commissioned corps of the Public Health Service; and anyone else designated by the president in time of war or national emergency.

Types of service covered by USERRA include voluntary or involuntary active duty; active duty for training; inactive-duty training; full-time National Guard duty (under Title 32); any period in which someone is absent from a job to undergo an examination to determine his fitness to perform such duty; and any period in which someone is absent from a job to perform funeral honors duty.

To make use of the protections allowed under USERRA, you must meet five simple eligibility requirements:

You must have a civilian position which you left (either temporarily for a drill weekend or longer, such as for a deployment overseas or for a regular four-year active-duty commitment) to perform "service in the uniformed services," either voluntarily or involuntarily.

You must give your civilian employer prior notice, orally or in writing, unless advance notice is not permitted because of military necessity.

You must not exceed the cumulative five-year limit on military service while remaining with a specific employer. (Numerous exceptions to this five-year rule exist and will be the subject of later columns.)

You must be released from the period of service without receiving a punitive or other-than-honorable discharge.

You must make a timely application for reemployment after release from service.

I'll discuss the finer points of these requirements in future columns.

USERRA is clear about being a floor, not a ceiling, on your rights as someone who is serving or has served in the military.

In other words, if state law, your employer's policy or a union contract provides you with greater rights or benefits, then USERRA does not supercede or nullify them. However, it does supercede state laws, contracts, policies and agreements that reduce, limit or eliminate USERRA rights or that impose additional eligibility criteria on your exercise of those rights.

Labor Department regulations explaining USERRA provisions in straightforward language are in the Code of Federal Regulations. A copy is online at <http://www.dol.gov/vets/regs/fedreg/final/2005023961.pdf>

The Defense Department also issued USERRA regulations at 32 CFR 104, as did the Merit

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Systems"Great customer service, thoroughly explained all aspects of my case. Thank you." - C.R.

"Cannot Thank You Enough" – R.S. and C.S.

"I cannot thank you enough for all that you did for us." - R.S. and C.S.

"Great Service"; "Great Service"; E.S.

I want to thank you all for the great service rendered [to] myself and family. - E.S. on Client Relations Attorney Derrick Hogan

Legal Disclaimer

The results of all client matters depend on a variety of factors unique to each matter. past successes do not predict or guarantee future successes.

"High Regard" – R.E.M.

"Your firm held my best interests with high regard... I thank you for your efforts." - R.E.M.

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"Prompt and efficient in processing claim, all correspondence handled in prompt and efficient manner." – K.B.

“Impressed” – W.W.

“As a retired heavy user of attorneys, I’m impressed with your concerns and your efforts to stay in touch with your clients. Its damned good management aligned with top notch expertise.” – W.W.

“Excellent Service” – J.R.

“Excellent service, very professional, and understanding and considerate of clients needs. Attorney was very approachable and there was a very good comfort level.” – J.R.

“Professional & Informative” – J.H.

“Professional & informative... I was pleased with the handling of the case. I was treated as a person, and kept abreast of all aspects of the case. Thank you all.” – J.H.

“Thanks So Much” – J.D.

“Without your Firm, I would not have known of my claim. Thanks so much!” – J.D.

“Gets Results” – F.P.

“Most certainly – The firm gets results!” – F.P.

“Quite Satisfied” – R.W.

“I am quite satisfied with the services your office has provided.” – R.W.

“Exceptional Legal Services” – A.S.

“Your firm, Tully Rinckey, has provided and continues to provide me with prompt, keen, exceptional legal services. After the initial consult, I felt relieved that I had the representation from Tully Rinckey... I have found a new found hope with Tully Rinckey...” – A.S.

“Absolute Best” – R.H.

“My attorney was the absolute best I could ever have hoped for. A pure professional in every sense of the word. She was very mindful of my financial expenditure and still was able to represent me very well in my court case.” – R.H.

“Outstanding Service” – A.R.

“Outstanding service, true professional.” – A.R.

“Top Notch” – V.W.

“My attorney was top notch. Very pleasant and helpful.” – V.W.

“Ideal Choice” – D.H.

“My attorney knew exactly the approach to take and was the ideal choice. She was extremely responsive. She was clear, balanced, and open to our views and feelings. She made it clear she was there for us and ready to answer questions.” – D.H.

“Very Satisfied” – D.D.

“I was very satisfied with the services provided which were completed in a very timely and professional manner.” – D.D.

“Excellent” – B.M.

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