

WNY Jury Finds Jamestown PD Willfully violated Employment Rights of Iraq and Afghanistan Veteran

After 7 years of litigation over vacation pay, employer slapped with more than \$50K in liquidated damages

October 3, 2014

– Buffalo, N.Y. –

A Chautauqua Supreme Court jury on Thursday found the City of Jamestown Police Department willfully violated the employment rights of a detective by improperly pro-rating his vacation pay while he repeatedly served as a member of the Air National Guard between 2002 and 2011. The jury's decision ends Lt. Col. Timothy H. Wright's nearly seven-year legal battle against the city, which will have to pay liquidated damages, also known as "double back pay," for willfully violating his rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Tully Rinckey PLLC, which represented Lt. Col. Wright, believes he will receive liquidated damages in excess of \$50,000. It has not been determined whether the city will be ordered to pay attorney's fees. Lt. Col. Wright began working at the Jamestown Police Department in 1987. He was deployed to Afghanistan in 2002 and Iraq in 2004. Upon returning to his civilian job, he received little to no vacation time for his periods of his military service. The city based the amount of vacation and leave to which Lt. Col. Wright was entitled on the number of days worked the previous year. However, this method of calculating vacation pay violated USERRA, which states qualified service members should be provided with the same amount of seniority and other rights and benefits they had when they went on military leave "plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed." "The jury sent a clear message to employers: Employers should not trample the employment rights of service members, and there is a high price to pay for employers who willfully violate USERRA. I commend Mr. Wright for his courage in waging this legal fight, which will bolster the employment rights of other service members," said Tully Rinckey PLLC Senior Associate Michael W. Macomber, who represented Mr. Wright. Lt. Col. Wright filed his USERRA lawsuit in 2007, after again being called to active duty. The jury's decision came two and a half years after the Chautauqua Supreme Court in Mayville, N.Y. on March 23, 2012 granted Lt. Col. Wright's cross motion for summary judgment and said he is "entitled to receive his vacation and leave time as if he had been continuously employed." The city appealed this decision and last June the Appellate Division of the Supreme Court of New York, Fourth Department remanded the case for trial. For more information, please contact James Schlett at (716) 439-4700 or at jschlett@fedattorney.com

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"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.

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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.

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

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