

Military Veteran Wins Damages, Reinstatement

A federal judge has awarded about \$779,000 in back pay, damages and attorney fees to a financial adviser who was not restored to his previous pay at Wachovia Services L.L.C. after returning from active military duty.

In a ruling last week in Michael Serricchio vs. Wachovia Securities L.L.C., New Haven, Conn., federal Judge Janet Bond Arterton made the award under the Uniformed Services Employment and Reemployment Rights Act and ordered Wachovia to reinstate Mr. Serricchio effective April 1.

Samuel F. Wright, an attorney with Tully Rinckey P.L.L.C. in Washington and specialist in USERRA cases, said if upheld ultimately, the award would be the largest ever under the 1994 federal law that is intended to safeguard the employment rights and benefits of military reserve members upon their return to civilian life.

In testimony before a congressional subcommittee in February 2008, Mr. Serricchio said he earned more than \$75,000 a year as a financial adviser for Prudential Securities. A member of the Air Force Reserves, he was called to active duty in September 2001. Upon returning more than two years later, he approached his firm, which since had become Wachovia and now is part of Wells Fargo & Co.

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He was told he could have an advance of \$2,000 per month, which he would be required to repay through commissions earned through cold-calling new accounts or from savings. Instead, Mr. Serricchio filed suit in 2005.

After a jury verdict in Mr. Serricchio's favor in June 2008. Last week, Judge Arterton awarded Mr. Serricchio \$291,000 in back pay and \$389,000 in damages, plus fees and costs. The judge also ordered Wachovia to reinstate Mr. Serricchio, effective April 1, as a financial adviser with the full package of employment benefits. The judge ruled Wachovia must pay Mr. Serricchio a monthly salary of \$12,300 for three months and a monthly draw of \$12,300 for the next nine months as an advance on future commissions. Reacting to the ruling, a spokesman for Charlotte, N.C.-based Wachovia said, "We are considering our options, including a possible appeal."

"It's a very important decision because it shows that an individual can take on a large institution and vindicate their rights," said David Golub of Silver Golub & Teitell L.L.P. in Stamford, Conn., who was Mr. Serricchio's attorney. Mr. Wright said the case also is important because it shows USERRA applies to employees who work on commission.