

Court Opens Door to Pre-USERRA Compensation Claims

The U.S. Court of Appeals for the Federal Circuit last week handed down a decision that may mean money for hundreds of thousands of current and former military reservists who served between 1980 and 2000. In the case—Hernandez v. Department of the Air Force—former reservist and retired civilian Air Force aircraft mechanic Jose Hernandez filed a claim for compensation with the Merit Systems Protection Board (MSPB) seeking credit for his annual, sick and leave without pay accounts. After an MSPB administrative judge (AJ) denied the former reservist access to his leave records prior to 1994—which the AJ said was the cut-off for such claims under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)—Hernandez took his claim to the appeals court. In an Aug. 27 decision, the court held that MSPB can order relief for violations of USERRA prior to that law's enactment in 1994. According to Tully, Rinckey & Associates, the firm that represented Hernandez, that means reservists now can claim compensation for the years 1980 to 2000. The firm estimated as many as 300,000 people could be affected. At an average \$3,000 in compensation each, that could represent as much as \$1 billion, the law firm said on Aug. 29.