

## LAW REVIEW<sup>1</sup> 12062

### What is a “Frontiero Refrigerator?”

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4.7—Extension of Statute of Limitations and Redemption Periods

5.5—Other Military Service and Family Obligations

10.2—Other Supreme Court Cases

**Q: I recently heard someone joke about still having their “Frontiero Refrigerator” around. I do not get the joke- what is a "Frontiero Refrigerator?"**

**A:** The *Frontiero v. Richardson* case is one familiar to constitutional law students across the country. *Frontiero v. Richardson*, 411 U.S. 677 (1973). Though the case is not exactly a household name, the decision has provided quite a few household appliances. A “Frontiero Refrigerator” is a facetious reference to the appliances, furniture, or other similarly large purchases that many female service members and their families made after receiving compensation for the benefits that had been unconstitutionally denied to them before the *Frontiero* decision.

Until the United States Supreme Court decision in *Frontiero*, female service members - and female service members only - were required under 37 U.S.C.S §§ 401, 403 and 10 U.S.C.S. §§1072, 1076 to prove that their family members were in fact financially dependent on them to receive benefits, such as housing allowances or health benefits, that were given to male service members with dependents without requiring proof of financial dependency. At the time, the plaintiff, Sharon *Frontiero* was a lieutenant in the Air Force. *Frontiero*’s husband was a full-time student and was partially dependent on her for his financial support, but did not meet the more than one-half threshold. *Frontiero* argued that this different treatment of male and female service members implicated the 5th Amendment’s Due Process Clause in two ways:

- 1) That female members bore an extra procedural burden as opposed to male service members who automatically received the benefits in question, and
- 2) That a male service member whose wife was not financially dependent on him for more than one- half of her support received the benefits anyway.

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<sup>1</sup>I invite the reader’s attention to <https://www.roa.org/page/LawCenter>. You will find more than 2000 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

The Supreme Court ruled that administrative efficiency, the reason offered by the government for the differing treatment, was not a sufficient reason to deny benefits to female service members that were automatically granted to similarly-situated male service members.

After the Supreme Court's ruling overturned the previous policy, female service members who had been denied these benefits were eligible to submit claims for benefits they had been owed while serving. 53 Comp. Gen. 148 (Comp. Gen. 1973). The checks for service members who had been serving for some time could have been pretty hefty, hence the purchases of "Frontiero Refrigerators."

However, those claims for compensation were still subject to the normal statute of limitations provisions, which under the Banning Act of 1940 (31 U.S.C. 71A), was ten years. This limitation raises another Service Members Law Center issue- the tolling of the statute of limitations while on military service under the Servicemembers Civil Relief Act (SCRA)(then the Soldiers' and Sailors' Civil Relief Act). Under the SCRA, the statute of limitations would effectively be put on "pause" while the service member was in military service, meaning that women who had served could still be eligible for compensation, even if they were no longer in the service, or possibly even if that service began more than ten years prior to the Frontiero ruling. For more information on how the SCRA affects tolling of the statute of limitations, See CAPT Sam Wright's [Law Review 960](#).