

DOJ Announces New Effort To Enforce USERRA and SCRA

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

1.4—USERRA enforcement

4.9—SCRA enforcement

On November 1, 2016, United States Attorney General Loretta Lynch announced a major new effort to enforce the rights of Active Component and Reserve Component service members under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Servicemembers Civil Relief Act (SCRA). She announced that the Department of Justice (DOJ) is creating a new funded “coordinator” position in each of the 93 United States Attorney offices³ and three new Assistant United States Attorney positions in communities with major military installations. These new coordinators and Assistant United States Attorneys will focus on protecting the legal rights of service members. Attorney General Lynch announced that these new positions are funded through the end of Fiscal Year 2018, which starts on October 1, 2017.

¹ I invite the reader’s attention to www.servicemembers-lawcenter.org. You will find more than 1500 “Law Review” articles about laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. I am the author of more than 1300 of the articles.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General’s Corps officer and retired in 2007. I am a life member of ROA. For six years (2009-15), I was the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA. Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. On 10/13/1994, President Bill Clinton signed into law Public Law 103-353, the Uniformed Services Employment and Reemployment Rights Act (USERRA), as a complete rewrite of the Veterans’ Reemployment Rights Act (VRRA), which dates from 1940. I have been dealing with the VRRA and USERRA for 34 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the interagency task force work product that President George H.W. Bush presented to Congress, as his proposal, in February 1991. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice at Tully Rinckey PLLC, and as SMLC Director. After ROA disestablished the SMLC last year, I returned to Tully Rinckey PLLC, this time in an “of counsel” role. To arrange for a consultation with me or another Tully Rinckey PLLC attorney, please call Ms. JoAnne Perniciaro (the firm’s Client Relations Director) at (518) 640-3538. Please mention Captain Wright when you call.

³ Our nation has 93 United States District Courts, including at least one for each state. Texas has four District Courts: Southern, Northern, Eastern, and Western. Each District has a United States Attorney, appointed by the President with Senate confirmation, and many Assistant United States Attorneys, who are career federal employees.

This renewed effort to protect service members is most welcome. I suggest that these new federal attorneys educate themselves about USERRA and the SCRA by consulting our “Law Review” column at www.servicemembers-lawcenter.org. At that site, one can find more than 1500 “Law Review” articles about laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. I am the author of more than 1300 of the articles.

I am informed that Staff Sergeant William Pfunk, USAR participated in the Attorney General’s news conference. I discuss his case in detail in Law Review 16050 (June 2016).