

LAW REVIEW¹ 23025

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ROA's Law Review Articles Are a Resource for USERRA Attorneys.

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

1.0—USERRA generally

Q: I am an attorney specializing in employment law, on the employee side. Recently, I heard from a member of the Army National Guard who claims that her employer (the local school district) has violated her rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). If I undertake to represent this young woman, where can I find detailed information about USERRA?

A: Please see www.roa.org/lawcenter. You will find more than 2,000 “Law Review” articles about USERRA and other laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index, to facilitate finding articles about specific topics. I recommend that you start with Law Review 15116 (December 2015). This article is a primer on

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2,000 “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 Spouses' 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. I am the author of more than 90% of the articles, but we are always looking for “other than Sam” articles by other lawyers.

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 45 years, I have collaborated with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 38 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 proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. §§ 4301-35). 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 (DOD) 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, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at <mailto:swright@roa.org>.

USERRA, and it refers to many other articles and to categories and subcategories in our Subject Index.

The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997, and we add new articles each month. The articles are available for free to everyone, not just ROA members. There is no toll booth on the road to the Law Review Library.

Through these articles, and by other means, including amicus curiae briefs that we file in the Supreme Court and other courts, ROA advocates for the rights and interests of those who serve our country in uniform, and we educate service members, military spouses, attorneys, judges, employers, ESGR volunteers, and others about the legal rights of service members and about how to exercise and enforce those rights.

Q: If I have questions about USERRA, after having read some of your articles, are you available for consultation?

A: Yes, and I will not charge for that service. You can reach me by e-mail at swright@roa.org.

I will ask you to join ROA, if you are eligible and not already a member. You can join on-line at www.roa.org. The cost is only \$20 per year or \$450 for a life membership. You are eligible to join ROA if you have ever served our country in uniform, in the Active Component, the Reserve, or the National Guard. Enlisted personnel as well as officers are eligible.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Organization of America
1 Constitution Ave. NE
Washington, DC 20002³

Q: I want your organization to file an amicus curiae brief on behalf of my client, if his case makes it to an appellate court. Is this something that your organization is willing to do?

A: Yes, in appropriate cases. We file several amicus briefs each year in the Supreme Court, the federal appeals courts, and occasionally in state appellate courts. If you want us to consider filing an amicus brief, please contact me sooner rather than later. If we are to file an amicus

³ You can also contribute on-line at www.roa.org.

brief in the Court of Appeals in support of your client's position, we must file that brief within seven days after you file your brief.⁴

Q: Are there other sources of definitive information about how to enforce USERRA against an employer?

A: Yes. As I explained in detail in Law Review 16044 (May 2016), the definitive reference book on USERRA is *The USERRA Manual*, by Kathryn Piscitelli and Edward Still.⁵

⁴ See F. R. App. P. 29(a)(6).

⁵ *The USERRA Manual* is available from and published by the Thomson Reuters publishing company. The book is updated annually. For more information, visit the Thomson Reuters website at <https://tinyurl.com/nha5sztm>, or contact Thomson Reuters at 1-888-728-7677.