LAW REVIEW[1] 24035
July 2024
ROA Files an Amicus Curiae Brief in the Supreme Court in Support of a Broad Interpretation of Section 5538 of Title 5, U.S. Code. The Supreme Court Agrees to Hear Two Similar Cases.
By Captain Samuel F. Wright, JAGC, USN (Ret.)[2]

1.1.1.8—USERRA applies to the Federal Government.
1.4—USERRA enforcement.
1.8—Relationship between USERRA and other laws/policies.
2.0—Paid leave for government employees who are Reserve Component service members.

[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 Which 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.

***Flynn v. Department of State,* 2021 MSPB LEXIS 3219 (Merit Systems Protection Board Sept. 17, 2021); *affirmed,* 2023 U.S. App. LEXIS 11790 (Fed. Cir. May 25, 2023), *certiorari granted* 2024 U.S. LEXIS 2762 (June 24, 2024).**

***Feliciano v. Department of Transportation,* 2021 MSPB LEXIS 3026 (M.S.P.B. Sept. 2, 2021), 2023 U.S. App. LEXIS 11791 (Fed. Cir. May 15, 2023), *certiorari granted* 2024 U.S. LEXIS 2762 (June 24. 2024).**

Facts of the *Flynn* case

Charles Flynn is a Lieutenant Colonel in the Army Reserve and a member of the Reserve Organization of America (ROA). On the civilian side, he is a special agent for the Bureau of Diplomatic Security of the United States Department of State (DOS). He was away from his DOS job for two periods of active duty labeled "Contingency Operation—Active Duty for Operational Support." His orders cited, as their authority, section 12301(d) of title 10 of the United States Code.

Flynn applied for differential pay for two active duty periods when he was away from his federal civilian job for active duty under section 12301(d), and DOS consulted with the United States Office of Personnel Management (OPM). OPM advised DOS that "military service under 10 U.S.C. § 12301(d) does not qualify for the reservist differential under 5 U.S.C. § 5538." On 4/14/2021, DOS passed along to Flynn the e-mail that it had received from OPM and denied Flynn's request for differential pay.

Flynn, represented by ROA life member Brian Lawler,[3] brought an action against DOS in the United States Merit Systems Protection Board (MSPB), which affirmed the denial of differential pay. Flynn appealed to

[3] Brian Lawler is an attorney in San Diego with a nationwide practice representing service members with claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other laws. He has had some great victories, including, two years ago, *Torres v. Texas Department of Public Safety,* 597 U.S. 580 (2022). *See https://pilotlawcorp.com/brian-j-lawler-founder-shareholder/.*

the United States Court of Appeals for the Federal Circuit,[4] which affirmed the MSPB decision.

In the final appellate step available to him, Flynn applied to the United States Supreme Court for a writ of certiorari, and the Supreme Court granted certiorari on June 24, 2024.

Facts of the *Feliciano* case

Nick Feliciano's case is similar to Charles Flynn's case, and Feliciano is also represented by Brian Lawler. Feliciano is a reservist in the Coast Guard Reserve and is employed, on the civilian side, by the Federal Aviation Administration (FAA).[5] From July 2013 until September 2014, Feliciano was away from his FAA job for active duty under section 12301(d) of title 10 of the United States Code (U.S.C.).[6] Feliciano applied for but was denied differential pay for this 15-month period. Like Flynn, Feliciano unsuccessfully challenged the denial of differential pay in the MSPB and the Federal Circuit.

What statutes apply to these cases?

Section 5538 of title 5 reads as follows:

> **(a)** An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under section 12304b of title 10 or a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

[4] The Federal Circuit is the specialized federal appellate court that sits in the District of Columbia and has nationwide jurisdiction over certain kinds of cases, including appeals from MSPB decisions.
[5] The FAA is part of the Department of Transportation.
[6] 10 U.S.C. § 12301(d).

(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

(2) the amount of pay and allowances which (as determined under subsection (d))—

(A) is payable to such employee for that service; and

(B) is allocable to such pay period.

(b) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

(1) during which such employee is entitled to re-employment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

(2) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

(c) Any amount payable under this section to an employee shall be paid—

(1) by such employee's employing agency;

(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.[7]

(e)

(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

(f) For purposes of this section—

(1) the terms "employee", "Federal Government", and "uniformed services" have the same respective meanings as given those terms in section 4303 of title 38;

(2) the term "employing agency", as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii) [intelligence agencies] with respect to which such employee has reemployment rights under chapter 43 of title 38 [USERRA]; and

(3) the term "basic pay" includes any amount payable under section 5304.[8]

---

[7] OPM has published "guidance" about its interpretation of section 5538 on its website, but OPM has not promulgated regulations, as authorized by this subsection. Because OPM has not complied with the notice-and-comment requirements of the Administrative Procedure Act, its interpretation of section 5538 is not entitled to any special deference in the courts.

[8] 5 U.S.C. § 5538.

Section 5538 refers to section 101(a)(13)(B) of title 10. Here is the entire text of section 101(a)(13):

> **(13)** The term "contingency operation" means a military operation that—
>
> **(A)** is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
>
> **(B)** results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 of this title, chapter 13 of this title, section 3713 of title 14, *or any other provision of law during a war or during a national emergency declared by the President or Congress.*[9]

Q: What does this language mean?

A: This case revolves around a dispute about the meaning of section 5538 of title 5 and section 101(a)(13)(B) of title 10. The enumerated title 10 sections[10] provide for the *involuntary* call-to active duty of Reservists and National Guard members. The United States Office of Personnel Management (OPM) interprets section 101(a)(13)(B)'s "catch-all" provision ("any other provision of law …") to apply only to other provisions that provide for *involuntary* call-to active duty.

[9] 10 U.S.C. § 101(a)(13) (emphasis supplied). It should be noted that our nation has been in declared "national emergency" periods continuously since the terrorist attacks of 9/11/2001, under Executive Orders issued by President George W. Bush, President Barack Obama, President Donald Trump, and President Joe Biden.

[10] The are sections 688, 12301(a), 12302, 12304, 12304a, 12305, and 12406 of title 10. These sections all provide for the *involuntary* call to active duty of military reservists, National Guard members, and retirees under certain circumstances. Section 3713 of title 14 authorizes the involuntary call-up of Coast Guard Reservists under certain circumstances.

On its website, OPM states:

> Qualifying active duty means active duty by a covered employee pursuant to a call or order, as described in 5 U.S.C. 5538(a). (See Part 1 of Appendix D in the OPM Policy Guidance.) (Note: Under section 5538(a), active duty that qualifies for coverage under section 5538 is active duty under 10 U.S.C. 12304b or a provision of law referred to in 10 U.S.C. 101(a)(13)(B)—i.e., the following specific provisions: sections 688, 12301(a), 12302, 12304, 12304a, 12305, and 12406 of title 10, United States Code; chapter 13 of title 10, United States Code; or section 3713 of title 14, United States Code. *Thus, qualifying active duty does not include voluntary active duty under 10 U.S.C. 12301(d) or annual training duty under 10 U.S.C. 10147 or 12301(b).)*[11]

Flynn and Feliciano, represented by Brian Lawler, assert that *during a war or national emergency* (like now) any order or call to active duty (even an order that the federal employee volunteered for or consented to) qualifies the employee for differential pay if his or her pay on active duty is less than his or her regular civilian pay. It seems that both the Flynn-Feliciano-Lawler interpretation and the OPM interpretation are reasonable.

The subsections of section 12301 of title 10 provide authority for Reserve Component service members to be called to active duty, sometimes voluntarily ("with the consent of the member") and sometimes involuntarily. Section 12301(d) reads as follows:

> At any time, an authority designated by the Secretary concerned [the Service Secretary, like the Secretary of the Army] may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, *with the consent of that*

[11] *See https://www.opm.gov/frequently-asked-questions/pay-and-leave-faq/pay-administration/what-types-of-active-duty-service-qualifies-for-reservist-differential/* (emphasis supplied).

> *member*. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State concerned.[12]

Q: Are these USERRA cases?

A: In a sense, yes. The United States Court of Appeals for the Federal Circuit has held:

> Our review of the [Merit System Protection] Board's decisions is circumscribed by statute. We must set aside findings or conclusions of the Board that we find to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule or regulation having been followed; or unsupported by substantial evidence. 5 U.S.C. § 7703(c) (2000). For purposes of this appeal, neither side contests the Board's determination that Petitioners have alleged denial of a benefit of employment due to their performance of military duties, thereby alleging a USERRA violation by an executive agency actionable to the Board under 38 U.S.C. § 4324(b)(1). *See Yates v. Merit Sys. Prot. Bd.*, 145 F.3d 1480, 1483 (Fed. Cir. 1998). Moreover, we agree with the Board that, in contrast to cases such as *Sheehan v. Department of the Navy*, 240 F.3d 1009, 1013-14 (Fed. Cir. 2001), the question in this case is not whether Petitioners' military status was a substantial or motivating factor in the agency's action, for agencies only grant military leave to employees who are also military reservists.

[12] 10 U.S.C. § 12301(d) (emphasis supplied).

> The issue, as the Board perceived, is the correct interpretation of 5 U.S.C. § 6323(a)(1): Petitioners cannot claim they were denied a benefit of employment if the Department granted them the full measure of leave due to them under section 6323(a)(1). Accordingly, the only issue we must decide is whether the Board correctly interpreted 5 U.S.C. § 6323(a)(1). The Board's interpretation of a statute is a determination of law that we review *de novo* on appeal. *Marano v. Dep't of Justice*, 2 F.3d 1137, 1141 (Fed. Cir. 1993).[13]

Section 4324 of USERRA[14] gives the Merit Systems Protection Board the authority and responsibility to hear and adjudicate claims that federal executive agencies, when acting as employers, have violated USERRA. The Federal Circuit has held that the MSPB is the proper forum for adjudicating claims that a federal executive agency has misapplied section 6323 of title 5 (paid military leave). It stands to reason that the same applies to claims that a federal agency has misapplied section 5538 (differential pay). But the only question at issue in these cases is the question of whether OPM, the MSPB, and the Federal Circuit have misapplied section 5538.

Q: When there are two or more reasonable interpretations of the words that Congress has enacted, how is a court to choose the correct interpretation?

A: The courts in Great Britain, the United States, and other common-law countries have developed rules of construction for determining the meaning of constitutional provisions, statutes, regulations, contracts, wills, and other legal texts.[15]

[13] *Butterbaugh v. De0artment of Justice,* 336 F.3d 1332, 1336 (Fed. Cir. 2003).
[14] 38 U.S.C. § 4324.
[15] *See generally Reading Law: The Interpretation of Legal Texts,* by Justice Antonin Scalia and Professor Bryan Garner (Thomson-West Publishing Co. 2012).

The everyday work of courts, including the United States Supreme Court, is to construe the words that Congress or a State legislature has enacted—to determine the meaning and effect of the statute at issue in the case. The process of *statutory construction* begins with the words that Congress or the Legislature has enacted. If the words are clear and unambiguous (capable of only one reasonable interpretation), there is no room for "liberal construction" or for trying to decipher the "legislative intent" underlying the enactment.

Because of hasty or unprofessional drafting, or because of compromises in the legislative process, there are frequently ambiguities in the words of the statute, and the court must utilize various tools to ascertain what the legislators who drafted and voted for the bill had in mind, or what they would have had in mind if the question before the court had occurred to them during the legislative process.

In at least a dozen cases decided by the Supreme Court in the last century, the Court has held that federal statutes should be liberally construed for the benefit of those who are serving or have served our country in the armed forces.[16]

Boone v. Lightner, **319 U.S. 561 (1943).[17]**

In a case applying the Soldiers' and Sailors' Civil Relief Act (SSCRA),[18] the Supreme Court wrote: "The Soldiers' and Sailors' Civil Relief Act is

[16] *See generally* Law Review 24010 (February 2024).

[17] This is a 1943 decision of the United States Supreme Court. Supreme Court decisions are published (reported) in a series of volumes called *United States Reports.* The citation means that you can find this case in Volume 319 of *United States Reports,* starting one page 561.

[18] In 2003, Congress substantially updated the SSCRA and renamed it the Servicemembers Civil Relief Act (SCRA). *See* Law Review 116 (March 2004).

always to be liberally construed to protect those who have been obliged to drop their own affairs to take up the burdens of the nation."[19]

***Fishgold v. Sullivan Drydock & Repair Corp.,* 328 U.S. 275 (1946).**

In its first case construing the federal reemployment statute, which was enacted in 1940, the Supreme Court stated:

> This legislation is to be liberally construed for the benefit of those who left private life to serve their country in its hour of great need. *See Boone v. Lightner,* 319 U.S. 561, 575. And no practice of employers or agreements between employers and unions can cut down the service adjustment benefits which Congress has secured the veteran under the Act. Our problem is to construe the separate parts of the Act as parts of an organic whole and give each as liberal a construction for the benefit of the veteran as a harmonious interplay of the separate provisions permits.[20]

ROA contends that, applying the Supreme Court's commandment to construe liberally (broadly) laws enacted for the benefit of service members and veterans, the Flynn-Feliciano-Lawler interpretation is preferable to the OPM interpretation.

Q: What is a "petition for a writ of certiorari?"

A: The final step in civil litigation is to apply to the United States Supreme Court for a writ of certiorari (discretionary review). Certiorari is granted only if four or more of the nine Justices vote for certiorari at

[19] *Boone,* 319 U.S. at 575.
[20] *Fishgold,* 328 U.S. at 285. *See generally* Law Review 23058 (October 2023) for a detailed discussion of this case.

a conference of the Justices. In 2010, certiorari was granted in only 2.8% of the cases where it was sought.[21]

If an organization (like ROA) files an amicus curiae brief suggesting that the Supreme Court should grant certiorari, that improves the odds that the Court will agree to hear the case. That is exactly what happened here, and the Supreme Court granted certiorari on June 24, 2024.

Q: What role did the Reserve Organization of America (ROA) play in these cases?

A: ROA filed an amicus curiae brief in the Supreme Court, urging the Court to grant certiorari in these two cases. You can find a link to our brief at the end of this article.

Q: What is an amicus curiae brief?

A: A: The term "amicus curiae brief" has been defined as follows:

> The term is used to refer to a **legal brief**, called an amicus brief, that may be filed with an appellate court, including a supreme court, by a party not involved with a current case, but in support of one side or another on the legal issue at hand.[22]

Q: What does ROA seek to accomplish by filing amicus briefs?

A: We draft and file amicus briefs in cases involving the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other laws that are especially pertinent to those who serve our country in uniform. We urge the courts, including the United States Supreme

---

[21] *See* *https://www.bing.com/search?q=In+what+percentage+of+cases+does+the+United+States+Supreme+Court+grant+certiorari%3F&form=ANSPH1&refig=b4d8d782aa4f4760812bfe42aea0a903&pc=U531*.

[22] *See* legaldictionary.net/amicus-brief/.

Court, to interpret those laws liberally for the benefit of those who are serving or have served in our nation's armed forces.

An attorney who previously served for 17 years as an appellate judge has written:

> **Why File an Amicus Brief?**
>
> There are good reasons to file an amicus brief. It all depends on what you're trying to achieve. The following are some of the best file:///C:/Users/Sam%20Wright/Downloads/23-861,%2023-868%20Amicus%20Brief.pdfreasons for employing this important tool.
>
> **1) The Outcome Sets a Precedent**
>
> In some appellate court cases, the decision can be a precedent-setting one. This means a binding ruling for future court cases. If you're currently involved in a similar case in an appellate court, you should seriously consider filing an amicus brief to share your relevant views on the matter. Taking this step may ensure a favorable ruling in your case.
>
> Another good reason lawyers may write amicus briefs is to inform the appellate court of rulings from other states. This tactic can help keep a level of consistency in orders from state to state. It can also give the ruling state valuable knowledge about how different courts have seen this type of case.
>
> **2) The Outcome Directly Affects your Group's Members**
>
> Many entities choose to file an amicus brief when the outcome of the case directly affects their members. An amicus brief will allow you to speak to the appellate court on the subject matter at hand.

You can advise the court on how a specific ruling on the case will affect your members and the organization that you're a part of. You can also highlight the potential legal, economic or social implications of a particular ruling, including telling the court about the impact of a possible decision on an industry, or on individuals or groups. And an amicus brief can explain why a particular holding by the court might be unworkable in other situations. You would do this to help the court understand the real-world consequences of a particular decision.

3) You Have Expert Knowledge on the Subject

Another common reason to file an amicus brief is that you have extensive knowledge of a subject, and you want everyone to share that. Your goal would also be to make the court privy to this knowledge by educating the judges. This type of brief is usually reserved for field experts and academics who can bring experience to the table.

4) You Want to Raise a Person's Profile

For those who are experts or academics in a particular field, amicus briefs are a great way to get your name out there. Filing an amicus brief lets many people know that you have expert capabilities in an area and that you're available as an expert witness on the subject. Ideally, you'd also be trying to educate the court on the subject matter while furthering your community profile on that subject matter.

5) You Want to Educate the Court

Non-profits also find amicus briefs are a great way to educate the court about specific issues. These organizations tend to have particular world views on certain subjects that they've studied

extensively. When a court's decision may end up affecting a non-profit institution, or their goals, for example, the organization may file an amicus brief.

6) It's a Great Marketing Tool

I can't talk about filing amicus briefs without sharing their excellent marketing potential. When utilized correctly, this type of brief can display you and your organization in light of how much you care about a specific issue. It can also demonstrate your ability to take action. These briefs are perfect for those looking to receive some positive press coverage, particularly from a high-profile case.[23]

I believe that the amicus curiae briefs that we have filed have served all of these important purposes.

Q: I know that lawyers are expensive. How has ROA been able to afford filing drafting and filing these briefs?

A: When appropriate, ROA drafts and files amicus briefs in the Supreme Court and other courts, advocating for the rights and interests of those who serve our country in uniform. The last six ROA amicus briefs have been drawn up for us by Wiley Rein LLP, a top law firm in our nation's capital. The work is done *pro bono publico,* or for the good of the public. That means that ROA does not pay any money for this excellent service, which is worth millions of dollars cumulatively. Bravo Zulu to Theodore A. Howard, Scott Felder, and the other lawyers at Wiley Rein LLP.

[23] https://www.sgrlaw.com/ttl-articles/why-and-when-to-file-an-amicus-brief/#.

Q: What happens now?

A: The Supreme Court's 2024-25 term begins on 10/7/2024 and ends on or about 6/30/2025. During that term, the parties will file briefs on the merits in the Supreme Court, and ROA will file a new amicus brief urging the Court to reverse the Federal Circuit in these two cases. There will be an oral argument, perhaps in late fall or early winter, and the Supreme Court decision will almost certainly be released before the end of the 2024-25 term.

Q: What are the prospects?

A: It is more likely than not that the Supreme Court will reverse the Federal Circuit in these two cases. As I have stated, getting the Supreme Court to grant certiorari is very much a long shot. Once you succeed in getting the Court to hear the case, you generally have a better-than-even chance of prevailing. The fact that certiorari was granted means that at least four of the nine Justices have a question about the way that the Federal Circuit decided these cases.

Please join or support ROA.

This article is one of 2,200-plus "Law Review" articles available at www.roa.org/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. We add new articles each month.

ROA is the nation's only national military organization that exclusively and solely supports the nation's reserve components, including the Coast Guard Reserve (6,179 members), the Marine Corps Reserve 32,599 members), the Navy Reserve (55,224 members), the Air Force Reserve (68,048 members), the Air National Guard (104,984 members),

the Army Reserve (176,171 members), and the Army National Guard (329,705 members).[24]

ROA is more than a century old—on 10/2/1922 a group of veterans of "The Great War," as World War I was then known, founded our organization at a meeting in Washington's historic Willard Hotel. The meeting was called by General of the Armies John J. Pershing, who had commanded American troops in the recently concluded "Great War." One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For more than a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's defense needs.

Through these articles, and by other means, including amicus curiae ("friend of the court") briefs that we file in the Supreme Court and other courts, we advocate for the rights and interests of service members and educate service members, military spouses, attorneys, judges, employers, Department of Labor (DOL) investigators, Employer Support of the Guard and Reserve (ESGR) volunteers, federal and state legislators and staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

[24] *See* https://crsreports.congress.gov/product/pdf/IF/IF10540/. These are the authorized figures as of 9/30/2022.

If you are now serving or have ever served in any one of our nation's eight[25] uniformed services, you are eligible for membership in ROA, and a one-year membership only costs $20 or $450 for a life membership. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve. If you are eligible for ROA membership, please join. You can join on-line at https://www.roa.org/page/memberoptions or call ROA at 800-809-9448.

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 20002[26]

Here is a link to the amicus curiae brief that ROA filed in the United States Supreme Court in February 2024:

file:///C:/Users/Sam%20Wright/Downloads/23-861,%2023-868%20Amicus%20Brief.pdf

[25] Congress recently established the United States Space Force as the eighth uniformed service.
[26] You can also contribute on-line at www.roa.org.