



Uniformed Services Employment And Reemployment Rights Act Of 1994 (USERRA)

Background

USERRA entitles servicemembers to return to their civilian employment upon completion of their military service with the seniority, status, and rate of pay that they would have obtained had they remained continuously employed by their civilian employer. USERRA also prohibits discrimination based on present, past and future military service.

The Attorney General has authority to bring lawsuits against private, state, and local government employers for violations of USERRA only upon receiving complaint referrals from the Department of Labor (“DOL”). Prior to referral, DOL’s Veterans’ Employment and Training Service (“VETS”) investigates and attempts to resolve servicemember complaints. If the Attorney General is reasonably satisfied that the servicemember is entitled to relief, the Attorney General may commence an action in federal court on behalf of the servicemember. If the employer is a state or state agency, the action is brought in the name of the United States. In all other cases, the United States files suit in the name of the servicemember. In cases where the Attorney General does not bring the case against a state employer, an individual is often precluded from bringing suit.

The Attorney General has assigned responsibility for handling USERRA referrals to the Civil Rights Division (“the Division”) of the United States Department of Justice. Within the Division, USERRA referrals are assigned to the Employment Litigation Section, which often handles the referrals in cooperation with local United States Attorneys’ Offices.

Since the Division assumed USERRA enforcement authority in 2004, it has filed 95 USERRA lawsuits and favorably resolved 152 USERRA complaints either through consent decrees obtained in those suits or through facilitated private settlements.

USERRA currently allows for recovery of lost wages and benefits and liquidated damages up to double that amount. The Employment Litigation Section of the Department of Justice itself has settled or received judgments in 123 USERRA cases. The damages awarded in 110 cases were below \$50,000. The defendants in the remaining cases where the damages were over \$50,000 were large employers, including United Airlines, the State of Nevada, and Penske Truck Leasing.

DOJ USERRA Resources - Go to:

<https://www.justice.gov/servicemembers/uniformed-services-employment-and-reemployment-rights-act-1994-userra> and <https://www.justice.gov/crt-military/file/797386/download>

Department of Labor Resources - Go to:

<https://www.dol.gov/vets/programs/userra/USERRA%20Pocket%20Guide.html> TOC shown below

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