

INTRODUCTION

The USERRA Manual: Uniformed Services Employment & Reemployment Rights is designed to be a comprehensive resource on USERRA. In addition to a treatise providing current coverage on all aspects of USERRA, this edition includes the full text of USERRA and related regulations, the Act's legislative history, practice materials such as sample pleadings and jury instructions, and citations to state laws similar to USERRA.

The 2026 edition of *The USERRA Manual* marks a new phase in this treatise, as my coauthor Edward Still passed away, sadly, before work could begin. He will be dearly missed. Please see my reflections on our partnership in the **Acknowledgment: In Memoriam** following this **Introduction**.

In this edition, I continue our practice of reflecting numerous USERRA court decisions issued over the past year. I expanded and deepened our analysis of the statute, the regulations, and the decisions under them.

What's new in the 2026 edition:

- Revision of discussion on 2025 USERRA amendments. § 1:3.
- Additional material on USERRA's relation to other laws. § 1:6.
- Expanded discussion regarding joint employers under USERRA—including reflection of *United States v. Department of Health and Environment* (state agency's control over county employee can make it an employer under USERRA); *Peterson v. Harrah's NC Casino Co., LLC* (just because two or more entities are joint employers does not mean they must be sued together under USERRA). § 2:5.
- Further cases and materials on liability of supervisors under USERRA. § 2:6.
- *Texas Department of Public Safety v. Torres* (discovery of veteran's service-related disability after reemployment did not trigger reemployment process under USERRA's disability provisions).
- Material added regarding federal employees' status during military leave. § 3:1.
- Further citations on determination of comparability of military leave to nonmilitary leave. § 3:3.
- Revision of discussion on exemptions from USERRA's five-year service limit. § 4:11.

- Expanded treatment of reporting and application deadline for employees hospitalized or recovering from service-related injuries or illnesses. § 4:16.
- Additional material regarding reemployment of federal workers. §§ 5:3, 5:7, 5:14.
- Revision of discussion on determining reconstructed compensation of employees during military leave for pension purposes under USERRA—including reflection of *Sorenson v. Delta Air Lines, Inc.* (finding lawful average-line-value method used to calculate deemed earnings of pilots that yielded greater contributions than those to which they were entitled under USERRA). § 6:4.
- Further cases and explanation regarding USERRA’s protection from discharge without cause of reemployed servicemembers. § 6:6.
- Updated material on persons protected from discrimination under USERRA—reflection of *Sellman v. Aviation Training Consulting, LLC* (USERRA does not protect veterans from discrimination because they are disabled). § 7:1.
- Added cases and discussion on proof of discriminatory motive under USERRA. §§ 7:7, 7:12, 7:14.
- New decisions regarding burdens of proof in discrimination and retaliation cases under USERRA. §§ 7:9, 7:12, 7:14.
- Updated discussion regarding necessary party respondents in USERRA litigation—reflection of *Peterson v. Harrah’s NC Casino Co., LLC* (employer sued under USERRA not automatically entitled to dismissal of suit on basis of plaintiff’s failure to join another employer). § 8:4.
- More cases on jurisdiction in suits against states and local governments under USERRA. § 8:5.
- Added material on mandatory arbitration of claims under USERRA—including reflection of *Kutz v. Bonita Springs Fire Control and Rescue District* (servicemember could not be forced to complete collectively-bargained grievance process over which he had no control); *George v. Piedmont Airlines, Inc.* (USERRA does not carve out any exception Railway Labor Act’s arbitration requirement). § 8:15.
- Additional materials in the Appendices—including updated USERRA-related statutes; legislative history to USERRA 2025 amendments; the latest Department of Labor Report to Congress on USERRA; additional citations to state statutes. Appendix C; Appendix E; Appendix Q; Appendix R.

Thank you for subscribing to *The USERRA Manual*. I work diligently each year to make the publication the most important resource available on USERRA, and I hope you will find it as invaluable for your practice as I do for mine. As of this writing, a number of federal courts have cited *The USERRA Manual* as

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authority on the topic, including in 13 district court decisions and two circuit court decisions. For instance, in *Bradberry v. Jefferson County, Tex.*, the Fifth Circuit described *The USERRA Manual* as having “usefully drawn from the statutory language and caselaw how an employer’s actions involving an employee returning from military service can occasionally implicate both [anti-discrimination and reemployment rights] parts of the Act,” and proceeded to quote the treatise’s analysis.¹

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¹ *Bradberry v. Jefferson County, Tex.*, 732 F.3d 540, 547, 197 L.R.R.M. (BNA) 2297, 97 Empl. Prac. Dec. (CCH) ¶ 44934, 163 Lab. Cas. (CCH) ¶ 10647 (5th Cir. 2013).