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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

_____)	
GEORGE LAWTON)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
NEWARK PUBLIC SCHOOLS,)	
)	
Defendant.)	JURY TRIAL DEMANDED
_____)	

COMPLAINT

Plaintiff, George Lawton ("Lawton"), by the undersigned attorneys, makes the following averments:

1. This civil action is brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301-4335, as amended (“USERRA”).

PARTIES

2. Lawton maintains a residence in Newark, New Jersey, within the jurisdiction of this Court.

3. Defendant, the Newark Public Schools (“NPS”), maintains a place of business at 2 Cedar Street, Newark, New Jersey, within the jurisdiction of this Court.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 38 U.S.C. § 4323(b)(3).

5. Venue is proper in this district under 38 U.S.C. § 4323(c)(2) because the NPS is a political subdivision of the State of New Jersey and maintains a place of business within this jurisdiction.

CLAIMS FOR RELIEF

6. In 1993, Lawton joined the United States Naval Reserve (“USNR”) and continues to serve in the USNR.

7. From 1997 through August 2005 Lawton had worked continuously for the NPS as a substitute teacher.

8. By letter dated July 15, 2005, the NPS offered Lawton a full-time teaching position in its Academy of Vocational Careers for the 2005-2006 academic year.

9. By letter dated August 17, 2005, Lawton notified the NPS in writing that he was being mobilized for service with his USNR unit and deployed overseas until at least April 2006.

Lawton informed the NPS that he wished to secure the full-time teaching position offered to him by the NPS upon his return from active duty.

10. By letter dated August 20, 2006, Lawton notified the NPS in writing that his active duty status had been extended through August 2007, and that he would secure his full-time and substitute teaching positions upon his return from active duty.

11. On or about September 30, 2007, Lawton completed his active military duty.

12. Beginning in August 2007, through a series of personal visits and telephone contacts with NPS officials, Lawton applied for reemployment and sought information concerning both immediate reemployment as a substitute teacher, and commencing employment in the previously offered full-time teaching position. Lawton received no information from the NPS and was not reemployed.

13. On October 10, 2007, Lawton contacted John Shackelford ("Shackelford"), Co-Ombudsman Director of the New Jersey Committee for Employer Support of the Guard and Reserve concerning the NPS's lack of cooperation in reemploying Lawton. Shackelford contacted the NPS to explain the NPS' obligations and Lawton's rights under USERRA, but the NPS took no action.

14. In November 2007, Lawton was informed by the NPS that his file had been "purged" from the NPS's list of substitute teachers and that he would have to file a new substitute teacher application. Lawton complied, submitting the new substitute teacher application package to the NPS on or about November 16, 2007. To date, Lawton has received no response.

15. The NPS violated Sections 4312 and 4313 of USERRA by failing to promptly

and properly reemploy Lawton as a substitute teacher upon his return from active service, or to a position of like seniority, status and pay, and otherwise place him in the position that he would have been in had his employment not been interrupted by military service.

16. The NPS's violation of USERRA was willful.

17. Because of the NPS's conduct, Lawton suffered monetary damages, including lost wages and benefits, in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Lawton prays that the Court enter judgment against the NPS and, further, that the Court:

A. Declare that the NPS's refusal to reemploy Lawton promptly was a violation of Sections 4312 and 4313 of USERRA;

B. Require that the NPS comply with the provisions of USERRA by reemploying Lawton as a substitute teacher, or in a position of like seniority, status, and pay;

C. Require that the NPS fully comply with the provisions of USERRA by paying Lawton all amounts due to him for his loss of wages, lost benefits and lost opportunities caused by the NPS's failure or refusal to comply with the provisions of USERRA;

D. Declare that the NPS's violations of USERRA were willful;

E. Order that the NPS pay Lawton as liquidated damages an amount equal to the amount of his lost compensation and other benefits suffered by reason of the NPS's willful violations of USERRA;


F. Enjoin the NPS from taking any action against Lawton that fails to comply with the provisions of USERRA;

G. Award Lawton prejudgement interest on the amount of lost wages and benefits found due; and


H. Grant such other and further relief as may be just and proper.

LORETTA KING
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BY:



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JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

George Lawton

(b) County of Residence of First Listed Plaintiff Essex

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

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DEFENDANTS

Newark Public Schools

County of Residence of First Listed Defendant Essex

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Adam S. Herman, Senior Associate Counsel

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
FEDERAL TAX SUITS	IMMIGRATION			
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 et seq.
 Brief description of cause:
 Failure to promptly reemploy plaintiff following service in the Uniformed Services

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S)

(See instructions): JUDGE _____ DOCKET NUMBER _____

Explanation:

5/26/09

DATE

SIGNATURE OF ATTORNEY OF RECORD

