

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

PAUL F. SUTTON,

Plaintiff,

v.

CITY OF CHESAPEAKE,

Defendant.

Civil Action No. 209CV 240

CLERK U.S. DISTRICT COURT  
NORFOLK, VIRGINIA

2009 MAY 22 AM 11:14

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**COMPLAINT**

Plaintiff, Paul F. Sutton ("Sutton"), by the undersigned attorneys, makes the following averments:

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

**JURISDICTION AND VENUE**

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

3. Venue is proper in this judicial district under 38 U.S.C. § 4323(c) and 28 U.S.C. § 1391(b). Defendant, City of Chesapeake ("Chesapeake"), is located in this judicial district, and a substantial part of the events giving rise to this suit occurred in this judicial district.

**PARTIES**

4. Sutton resides in Norfolk, Virginia, which is within the jurisdiction of this Court.

5. Chesapeake is a city located within the jurisdiction of this Court and is an employer within the meaning of 38 U.S.C. § 4303(4)(A).

## CLAIM FOR RELIEF

6. Sutton was employed by the Chesapeake Police Department ("CPD") from February 16, 1974 to January 1, 2001.

7. Sutton has served in the United States Coast Guard Reserve ("Coast Guard") since 1979.

8. In a memorandum dated November 25, 2000, Sutton notified Police Chief Richard Justice that he had received orders for active duty with the Coast Guard. From December 1, 2000, when Sutton left his employment with the CPD, through the present, he has served on active duty with the Coast Guard.

9. On November 1, 2007, Sutton timely sought reemployment with the CPD by applying for reemployment in writing to Police Chief Justice.

10. As defined by USERRA, Sutton's military service was less than five years at the time he sought reemployment.

11. On November 15, 2007, the CPD denied Sutton's request for reemployment.

12. Because the CPD denied his request for reemployment, Sutton extended his Coast Guard tour of duty until December 19, 2009.

13. Sutton filed a complaint under USERRA with the Department of Labor ("DOL") regarding the CPD's failure to reemploy him.

14. The DOL's Veterans' Employment and Training Service ("VETS") conducted an investigation of Sutton's complaint, and determined that Sutton's claim had merit.

15. Chesapeake has violated Sections 4312 and 4313 of USERRA by, among other ways, failing to promptly reemploy Sutton upon his request for reemployment to either the position he would have held had his employment not been interrupted by his military service, or to a position of like seniority, status and pay.

16. Because of Chesapeake's conduct, Sutton has suffered damages, including lost wages and benefits, in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Sutton prays that the Court enter judgment against Chesapeake as follows:

A. Declare that Chesapeake's failure to promptly reemploy Sutton following his request for reemployment was a violation of USERRA;

B. Require that Chesapeake fully comply with the provisions of USERRA, and pay Sutton for lost wages and benefits suffered by reason of Chesapeake's failure or refusal to comply with USERRA;

C. Order Chesapeake to fully comply with the provisions of USERRA and offer to reemploy Sutton and place him in a position of like seniority, status and pay to the position that he would have attained had he remained employed continuously with Chesapeake and had not served in the Coast Guard;

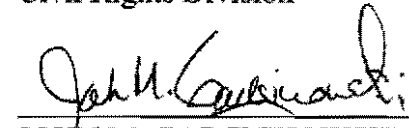
D. Enjoin Chesapeake from taking any action against Sutton that fails to comply with the provisions of USERRA;

E. Award Sutton any prejudgment interest on the amount of lost wages and benefits found due; and

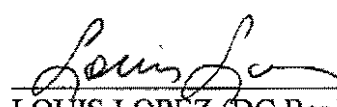
F. Grant such other and further relief as may be just and proper together with the costs and disbursements of this lawsuit.

Date: *May 21, 2009*

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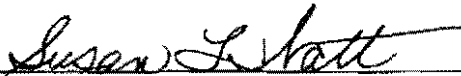
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