

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

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STEPHEN M. RALSTON )  
)  
Plaintiff, )  
)  
v. )  
)  
SOUTH BEND PUBLIC )  
TRANSPORTATION CORPORATION )  
)  
Defendant. )  
\_\_\_\_\_ )

Civil Action No. 3:11CV 222RL

**COMPLAINT**

Plaintiff, Stephen M. Ralston (Ralston), by the undersigned attorneys, alleges as follows:

**INTRODUCTION**

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 district under 38 U.S.C. § 4323(c)(2) and 28 U.S.C. §1391(b) because Defendant, South Bend Public Transportation Corporation (TRANSPO), maintains a place of business in this judicial district.

**PARTIES**

4. Plaintiff Ralston resides in South Bend, Indiana, located within St. Joseph County, Indiana. St. Joseph County is within the jurisdiction of this Court.

5. TRANSPO is a public transportation agency that maintains a place of business at 1401 South Lafayette Boulevard, South Bend, Indiana, within the jurisdiction of this Court.

#### **CLAIM FOR RELIEF**

6. Ralston joined the United States Army Reserve (Reserve) in 2000, and currently holds the rank of First Lieutenant.
7. Ralston began working as an Operations Planner for TRANSPO during or around December 2005. As an Operations Planner, Ralston was primarily responsible for route planning, coordinating bus drivers during special events, and analyzing rider statistics.
8. During January 2008, Ralston was ordered by the Reserve to perform full-time military duty.
9. During January 2008, prior to the commencement of his military duty, Ralston provided oral notice to TRANSPO's then Assistant General Manager of Ralston's impending military service. Ralston's last day of work prior to pre-deployment training and deployment to Iraq was on or about January 20, 2008.
10. During February 2008, Ralston provided TRANSPO with a letter informing TRANSPO that he would be serving on active duty from January 21, 2008 through August 4, 2008, and provided TRANSPO with a copy of his military orders.
11. During June 2008, TRANSPO received a letter from Ralston's military unit informing TRANSPO that Ralston's military obligations were expected to continue until November 2009.

12. On or about November 25, 2009, Ralston returned from Iraq, and hand delivered a letter to TRANSPO stating that he sought reemployment with TRANSPO.
13. Ralston was re-employed by TRANSPO on or about December 1, 2009. On Ralston's first day back at TRANSPO, Assistant General Manager Pearl informed Ralston that during Ralston's deployment, his position as an Operations Planner had been eliminated and that Ralston would be discharged on December 31, 2009.
14. Ralston's military service was a motivating factor in TRANSPO's decision to eliminate his position.
15. On December 31, 2009, thirty days after Ralston returned to work, TRANSPO discharged Ralston. No other TRANSPO employee was discharged on December 31, 2009.
16. TRANSPO violated Section 4311 of USERRA by eliminating Ralston's position and discharging him from employment with TRANSPO because of Ralston's absence to perform military service or his military obligations.
17. TRANSPO violated Sections 4312 and 4313 of USERRA, among other ways, by failing and refusing to reemploy Ralston in the position in which Ralston would have been employed if his continuous employment had not been interrupted by Ralston's military service from January, 2008 to November, 2009, or in a position of like seniority, status and pay.
18. TRANSPO violated Section 4316 of USERRA, among other ways, by discharging Ralston less than one year after his reemployment without cause.
19. As a result of TRANSPO's unlawful refusal to properly reemploy Ralston, and TRANSPO's unlawful discharge of Ralston less than one year after his reemployment

without cause because of his absence for military service, Ralston has suffered a loss of earnings and other benefits of employment.

### **REQUEST FOR RELIEF**


WHEREFORE, Ralston prays that the Court enter judgment against TRANSPO, its officers, agents, employees, successors and all persons in active concert or participation with it, as follows:

1. Declare that TRANSPO's elimination of Ralston's position and discharge from employment on December 31, 2009 was unlawful and in violation of USERRA;
2. Declare that TRANSPO's failure to properly reemploy Ralston upon his return from his military service during November 2009 was unlawful and in violation of USERRA;
3. Require that TRANSPO comply with the provisions of USERRA by paying Ralston for his loss of wages and other benefits suffered by reason of TRANSPO's failure or refusal to comply with the provisions of this law;
4. Enjoin TRANSPO from taking any action against Ralston that fails to comply with the provisions of USERRA;
5. Award Ralston prejudgment interest on the amount of lost wages found due; and
6. Grant such other and further relief that is just and proper.

Respectfully submitted,

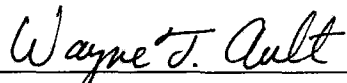
THOMAS E. PEREZ  
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BY:

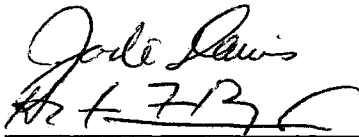


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