

FILED

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2007 APR -4 PM 2:34

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

7 Attorneys for Plaintiff
8 United States of America

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

EDCV07-0391 SGL (JCR)

12 EARL G. BRANTNER,
13 Plaintiff,

CASE NO.:

COMPLAINT

14 v.

C M L RIGHTS
(43 U.S.C. §§ 4301, *et seq.*)

16 TOTAL LOGISTIC CONTROL,
17 INC.,

JURY TRIAL DEMAND

18 Defendant.

19
20 Plaintiff, Earl G. Brantner ("Brantner"), by the undersigned attorneys,
21 makes the following averments:

22
23 1. This civil action is brought pursuant to the Uniformed Services
24 Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301 - 4333
25 ("USERRA").

26 JURISDICTION AND VENUE

27 2. This Court has jurisdiction over the subject matter of this action pursuant to
28 38 U.S.C. § 4323(b).

1 3. Venue is proper in this district under 38 U.S.C. § 4323(c)(2) and 28 U.S.C.
2 § 1391(b) because Defendant, Total Logistic Control, Inc. ("TLC"), maintains a
3 place of business in this judicial district.

4 PARTIES

5 4. Plaintiff Brantner resides in Spartanburg, South Carolina, and consents to
6 the jurisdiction of this Court.

7 5. TLC maintains a place of business at 9160 Buffalo Ave, Rancho
8 Cucamonga, California 91730, within the jurisdiction of this Court.

9 CLAIM FOR RELIEF

10 6. Brantner enlisted in the United States Army in 1982. He was honorably
11 discharged in 1985. Brantner enlisted in the United States Navy in 1986. He was
12 honorably discharged in 1992.

13 7. On or about February 2001, Brantner joined the Vermont Air National
14 Guard as ~~an Airman~~ First Class (E-3). He later moved to California and
15 transferred into the California Air National Guard. Brantner was assigned to the
16 163rd Air Refueling Wing of the California Air National Guard.

17 8. In September 2001, Brantner was promoted to Senior Airman (E-4).

18 9. In late 2002, Brantner applied to attend the California Air National Guard's
19 Airman Leadership School, in residency, at the suggestion of his commanding
20 officers.

21 10. On or about February 3, 2003, Brantner commenced full-time employment
22 as a warehouse clerk with TLC at its Ontario Dedicated Warehouse in Rancho
23 Cucamonga, California ("the Warehouse").

24 11. On or about March 10, 2003, Brantner received a phone call from Senior
25 Master Sergeant Rachael Del Real informing him that he had been selected to
26 attend the Airman Leadership School.

27 12. On or about March 13, 2003, Brantner provided TLC with verbal notice that
28 he would be attending Airman Leadership School.

1 13. On or about March 25,2003, the California Air National Guard issued a .
2 written order, ordering Brantner to attend the Airman Leadership School, in
3 residency, ~~from~~ April 13 through May 17,2003.

4 14. Shortly thereafter, Brantner provided TLC with written notice of the written
5 order.

6 15. On or about April 4,2003, Gene Tenuta ("Tenuta"), the Warehouse facility
7 manager, met with Brantner and requested that he not attend the Airman
8 Leadership School as ordered. Brantner refused.

9 16. On or about April 8, 2003, Ken Vogel ("Vogel"), the TLC Warehouse
10 operations manager, met with Brantner and requested that he not attend the
11 Airman Leadership School as ordered. Brantner refused.

12 17. On or about April 11,2003, Vogel requested that Brantner sign a letter of
13 voluntary resignation from TLC. Brantner refused to sign the letter of voluntary
14 resignation. Vogel then told Brantner that he no longer worked for the company.
15 Vogel requested that Brantner collect his personal effects and leave the premises.
16 Shortly thereafter, TLC mailed Brantner a letter stating that it had accepted
17 Brantner's voluntary resignation effective April 11,2003. The letter stated in part
18 "the resignation is a result of your choice to attend a non-mandatory military
19 leadership training course."

20 18. From April 13 through May 17,2003, Brantner attended the Airman
21 Leadership School.

22 19. On or about May 19,2003, Brantner returned to TLC and verbally and in
23 writing requested reemployment. TLC denied him reemployment.

24 20. TLC has violated Sections 4311 and 4312 of USERRA, among other ways,
25 by discriminating against Brantner, by discharging Brantner, and by denying him
26 reemployment and other employment benefits because of his membership in,
27 service in, application for service in, or obligation for service in the uniformed
28 services.

1 21. TLC's violations of USERRA were willful as TLC knew or showed reckless
2 disregard for whether its conduct was prohibited under USERRA. Specifically, at
3 a minimum, prior to his termination, Brantner provided TLC with a brochure
4 explaining TLC's obligations under USERRA, and TLC's Tenuta spoke with
5 California Air National Guard Senior Master Sergeant Rachael Del Real and
6 Colonel Rex Hinesly. Moreover, TLC knew about its duty to reemploy
7 servicemembers because its employee information book contained provisions
8 requiring reemployment of servicemembers.

9 22. Brantner has suffered substantial loss of earnings and other benefits of
10 employment as a result of TLC's violations of USERRA.

11 PRAYER FOR RELIEF

12 WHEREFORE, Brantner prays that the Court enter judgment against TLC,
13 its officers, agents, employees, successors, and all persons in active concert or
14 participation with it, as follows:

15 23. Declare that TLC's discharge of, and denial of reemployment to, Brantner
16 were unlawful and in violation of USERRA;

17 24. Order that TLC fully comply with the provisions of USERRA by reinstating
18 Brantner at the level of seniority, status and compensation that he would
19 have enjoyed had he remained employed continuously with TLC, or provide
20 appropriate front pay;

21 25. Order that TLC pay appropriate backpay, including but not limited to the
22 loss of wages and other benefits suffered by reason of TLC's failure or refusal to
23 comply with the provisions of the law;

24 26. Find that TLC's violations of USERRA were willful as TLC either knew or
25 showed reckless disregard for whether its conduct was prohibited by USERRA;

26 27. Order that TLC pay Brantner as liquidated damages an amount equal to the
27 amount of his lost wages and other benefits suffered by reason of TLC's willful
28 violations of USERRA;

1 28. Enjoin TLC from taking any action against Brantner that fails to comply
2 with the provisions of USERRA;

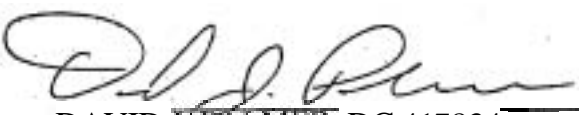
3 29. Award Brantner prejudgment interest on the amount of lost compensation
4 found due; and

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


7
8 ALBERTO R. GONZALES
Attorney General

9 WAN J. KIM
Assistant Attorney General
10 Civil Rights Division

11 By:



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13 Chief, Employment Litigation Section



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16 Deputy Chief
17 LESLIE M. GARDNER, CA 228693
18 VICTOR D. QUINTANILLA, TX 24046669
19 Trial Attorneys
EMPLOYMENT LITIGATION SECTION
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U.S. Department of Justice
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Stephen G. Larson and the assigned discovery Magistrate Judge is John Charles Jr. Rayburn.

The case number on all documents filed with the Court should read as follows:

EDCV07 - 391 SGL (JCR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

VICTOR D. QUINTANILLA, TX 24046669
US Department Of Justice, Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20035-5968
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EARL, G. BRANTNER,

PLAINTIFF(S)

v.

TOTAL LOGISTIC CONTROL, INC.,

DEFENDANT(S).

CASE NUMBER

EDCV07-0391SG-L (JCLB)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiffs attorney
VICTOR D. QUINTANILLA, whose address is:

UNITED STATES DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C., 20035-5968

an answer to the complaint _____ amended complaint counterclaim cross-claim
which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

APR - 4 2007

Dated: _____

Clerk, U.S. District Court

By: *R. Padilla*
Deputy Clerk

(Seal of the Court)

VICTOR D. QUINTANILLA, TX 24046669
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EDCV07-0391 SGL (CCRA)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiffs attorney VICTOR D. QUINTANILLA, whose address is:

UNITED STATES DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C., 20035-5968

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which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
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APR - 4 2007

Dated: _____

Clerk, U.S. District Court

LIZ PADILLA

By: _____

Deputy Clerk

(Seal of the Court)