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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON**

2009-09-15 10:12 AM

**DAVID ECKHARDT,**  
Plaintiff,

Civil No.  
**CV '09 256 ST**  
**COMPLAINT**

v.  
**STIMSON LUMBER COMPANY,**  
Defendant.

**Uniformed Services Employment and  
Re-employment Rights Act of 1994  
38 U.S.C. §§ 4301 - 4333**

**DEMAND FOR JURY TRIAL**

Plaintiff, David J. Eckhardt ("Eckhardt"), by the undersigned attorneys, makes the following averments:

1. This is a civil action brought pursuant to the Uniformed Services Employment and Re-employment Rights Act of 1994, 38 U.S.C. §§ 4301 - 4333 ("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)(1) and 28 U.S.C. § 1391(b). Defendant, Stimson Lumber Company ("Stimson"), is a company that maintains a place of business in this judicial district. Additionally, a substantial part of the events giving rise to the claim occurred in this district.

### CLAIM FOR RELIEF

4. In February 2007, Eckhardt was hired as a boiler operator by Stimson at its Tilamook, Oregon facility.
5. At the time of his hire by Stimson, Eckhardt was in the Naval Reserves. Soon after beginning employment with Stimson, Eckhardt was notified that he had to attend military training from March 18 through March 30, 2007. Eckhardt promptly told Stimson of his military training obligation.
6. While at military training, Eckhardt injured himself during an authorized physical training session.
7. Eckhardt timely returned to Stimson following his military training obligation on April 2, 2007. He immediately informed Stimson of his injury, and his need to seek medical attention and convalesce from the injury.
8. On or about April 20, 2007, Eckhardt received a medical release to return to full duty at work. That same day, he reported to Stimson with his medical release. In response, Stimson notified Eckhardt that it had hired another individual to replace him, and that his request for re-employment was denied.
9. Eckhardt filed a complaint under USERRA with the United States Department of Labor on June 8, 2007.
10. The United States Department of Labor's Veterans Employment and Training Service ("VETS") conducted an investigation, and determined that Eckhardt's claim had merit.
11. Stimson has violated Sections 4312 and 4313 of USERRA by, among other ways,

failing to promptly re-employ Eckhardt upon his return from military training to either the position he would have held had his employment not been interrupted by his military service, or a position of like seniority, status, and pay.

12. Stimson's actions were willful under 38 U.S.C. § 4323(d)(1)(C).
13. Because of Stimson's conduct, Eckhardt has suffered monetary damages, including lost benefits, in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Eckhardt prays that the Court enter judgment against Stimson as follows:

- A. Declare that Stimson's failure to promptly and properly re-employ Eckhardt following his military training was unlawful and in violation of USERRA;
- B. Order Stimson to fully comply with the provisions of USERRA, and pay Eckhardt for lost earnings, with interest, and benefits suffered by reason of Stimson's failure or refusal to comply with USERRA;
- C. Order Stimson to pay Eckhardt liquidated damages;
- D. Order Stimson to fully comply with the provisions of USERRA and offer to re-employ Eckhardt and place Eckhardt at the appropriate seniority, status and compensation that he would have attained had he remained employed continuously with Stimson until the present, including during the time of his military training;
- E. Enjoin Stimson from failing to comply in the future with all provisions of USERRA; and,
- F. Grant such other and further relief as may be just and proper together with the

costs and disbursements of this lawsuit.

**JURY DEMAND**


David Eckhardt hereby demands a trial by jury of all issues so triable.

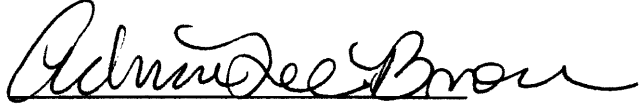
Dated: *March 4th, 2009*

Respectfully submitted,

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