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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**
16

17 MATTHEW T. DENNING,)
18 Plaintiff,) Case No.
19 v.)
20 STONESCAPE PAVERS, LLC,)
21 Defendant.)
22

23 **COMPLAINT**
24 **(JURY DEMAND)**

25 Plaintiff, Matthew T. Denning ("Denning"), by the undersigned attorneys, makes the
26 following averments:

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

3 **JURISDICTION AND VENUE**

4 2. This Court has jurisdiction over the subject matter of this action pursuant to
5 38 U.S.C. § 4323(b).

6 3. Venue is proper in this judicial district under 38 U.S.C. § 4323(c)(2) because
7 Defendant, Stonescape Pavers, LLC (“Stonescape LLC”), exercises authority, is located in and
8 does business within this judicial district. Additionally, the Court has jurisdiction under
9 28 U.S.C. § 1391(b) because events giving rise to this lawsuit occurred in this judicial district.

10 **PARTIES**

11 4. Denning resides in Las Vegas, Nevada.

12 5. Stonescape LLC is a limited liability company with offices in Las Vegas, Nevada,
13 located within the jurisdiction of this Court, and Stonescape LLC is an employer within the
14 meaning of 38 U.S.C. § 4303(4)(A).

15 **CLAIM FOR RELIEF**

16 6. Denning is a Senior Airman in the United States Air Force Reserves. He
17 previously was a soldier in the Utah Army National Guard from October 1990 through October
18 1998 and from November 2002 through February 2007.

19 7. Stonescape Pavers, Inc. (“Stonescape”) was a Nevada close corporation owned
20 and operated by Douglas Anthony (“Anthony”). Upon information and belief, Stonescape is no
21 longer an operating business entity.

22 8. In or about July 2005, Denning began employment as a commercial salesman at
23 Stonescape.

24 9. On or about January 17, 2006, Denning provided Stonescape written notice of his
25 upcoming military service.

26 10. Denning deployed to Iraq as a member of the Utah Army National Guard in

1 support of Operation Iraqi Freedom from January 19, 2006 through June 25, 2006.

2 11. Upon completing his military service, Denning applied for reemployment with
3 Stonescape on June 26, 2006, and was reemployed as a commercial salesman on July 14, 2006.

4 12. Shortly after returning to Stonescape, Denning was given a pay raise and
5 additional duties, along with his sales responsibilities, that included taking inventory of
6 Stonescape's equipment and organizing its personnel records.

7 13. On August 26, 2006, Denning met with Anthony, Kenneth O'Connell, Brian
8 O'Connell, and John Baker ("Baker"). At this meeting, Denning's employment with Stonescape
9 was terminated without cause.

10 14. On September 20, 2006, Denning filed a complaint with the Department of
11 Labor's Office of Veterans' Employment and Training Services.

12 15. Stonescape LLC incorporated on January 27, 2006. In a business transaction that
13 was finalized on or about December 7, 2006, Stonescape LLC purchased Stonescape.

14 16. Stonescape LLC's original partners included Anthony, Brian O'Connell, Kenneth
15 O'Connell, and Baker.

16 17. Upon information and belief, Stonescape LLC is the successor in interest to
17 Stonescape.

18 18. Stonescape LLC violated Section 4316 of USERRA by, *inter alia*, discharging
19 Denning without cause within 180 days of his reemployment after returning from military
20 service.

21 19. Stonescape LLC's violations of USERRA were willful.

22 20. Because of Stonescape LLC's unlawful conduct, Denning suffered monetary
23 damages, including lost wages and benefits, in an amount to be proven at trial.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Denning prays that the Court enter judgment against Stonescape LLC
26 and, further, that the Court:

1 A. Declare that Stonescape LLC's discharge of Denning was a violation of Section
2 4316 of USERRA;

3 B. Require that Stonescape LLC fully comply with the provisions of USERRA by
4 offering to reemploy Denning in a position of like seniority, status and pay to the position he
5 would have had if he had been continuously employed by Stonescape LLC and had not served in
6 the military;

7 C. Require that Stonescape LLC fully comply with the provisions of USERRA by
8 paying Denning all amounts due to him for his loss of wages, benefits and other opportunities
9 caused by Stonescape LLC's failure or refusal to comply with the provisions of USERRA;

10 D. Declare that Stonescape LLC's violations of USERRA were willful;

11 E. Order that Stonescape LLC pay Denning as liquidated damages an amount equal
12 to the amount of his lost wages and other benefits suffered by reason of Stonescape LLC's willful
13 violations of USERRA;

14 F. Enjoin Stonescape LLC from taking any action against Denning that fails to
15 comply with the provisions of USERRA;

16 G. Award Denning prejudgment interest on the amount of lost wages and benefits
17 found due; and

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

19 **JURY DEMAND**

20 Denning hereby demands a trial by jury of all issues so triable.

21 DATED this 29th day of June, 2009.

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