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 18 Attorneys for Plaintiff Kyle A. Sharp

19 IN THE UNITED STATES DISTRICT COURT
 20 FOR THE DISTRICT OF ARIZONA

21 Kyle A. Sharp,)
 22 Plaintiff,)
 23 v.)
 24 ServiceMaster 24-Hour; Gregory)
 Tullar,)
 25)
 26 Defendants.)
 27 _____)

COMPLAINT

28 Plaintiff, Kyle A. Sharp (“Sharp”), by the undersigned attorneys, alleges:

1 would be returning from active military duty on November 21, 2010, and stating that he
2 would like to “com[e] back to work for [Tullar] full time if the position is there.” Tullar
3 responded, stating that he was implementing a new program at ServiceMaster and
4 thought that Sharp would be a good fit for a new position. Sharp was open to this option
5 and said that he would be in touch.

6 12. On November 22, 2010, Sharp completed his Army National Guard
7 training, was released from active duty, and contacted Tullar to let him know he was
8 returning from training. Tullar told Sharp to contact him when he returned.

9 13. On November 29, 2010, Sharp met with Tullar, who stated that a new crew
10 chief had replaced Sharp while he was on active military duty and would continue in that
11 position. Tullar described a new position to Sharp, stated that he wanted Sharp to work
12 for him but that he did not know if he could afford him, and asked Sharp to get back to
13 him with a salary requirement within a week. The following week, Sharp notified Tullar
14 that he was seeking a take-home salary comparable to the salary he had earned as Crew
15 Chief. Tullar informed Sharp the following week that he could not afford to pay him that
16 salary; Tullar provided no counteroffer and did not reemploy Sharp in any position.

17 14. On January 5, 2011, Sharp filed a complaint against ServiceMaster under
18 USERRA with the Veterans’ Employment and Training Service (“VETS”) of the United
19 States Department of Labor.

20 15. The Department of Labor Solicitor’s Office concluded that the USERRA
21 complaint Sharp filed against ServiceMaster had merit and referred the matter to the
22 United States Department of Justice.

23 16. ServiceMaster and Tullar violated Sections 4312 and 4313 of USERRA by
24 failing to reemploy Sharp in either the position he would have held had his employment
25 not been interrupted by military service, or a position of like seniority, status and pay.

26 17. As a result of ServiceMaster and Tullar’s failure to reemploy Sharp, Sharp
27 has suffered a loss of earnings and other benefits of employment.

28 18. All conditions precedent have occurred or have been performed.

PRAYER FOR RELIEF

WHEREFORE, Sharp prays that this Court enter judgment against ServiceMaster and Tullar and all persons in active concert or participation with them, as follows:

19. Declare that ServiceMaster and Tullar’s failure to reemploy Sharp was unlawful and in violation of USERRA;

20. Order that ServiceMaster and Tullar fully comply with the provisions of USERRA by reemploying Sharp and paying him for his loss of earnings and other benefits suffered by reason of ServiceMaster and Tullar’s failure to comply with USERRA’s provisions;

21. Enjoin ServiceMaster and Tullar from taking any action against Sharp that fails to comply with USERRA’s provisions;

22. Award Sharp prejudgment interest on the amount of lost compensation found due; and

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

Date: September 22, 2011

Respectfully submitted,

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By: /s Delora L. Kennebrew

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