**ANNOTATIONS AND COMMENTS**

38 U.S.C. § 4311 states, in part:

An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

An employer shall be considered to have engaged in actions prohibited –

\* \* \*

under subsection , if the person’s (A) action to enforce a protection afforded any person under this chapter, (B) testimony or making of a statement in or in connection with any proceeding under this chapter, (C) assistance or other participation in an investigation under this chapter, or (D) exercise of a right provided for in this chapter, is a motivating factor in the employer’s action, unless the employer can prove that the action would have been taken in the absence of such person’s enforcement action, testimony, statement, assistance, participation, or exercise of a right.

Under the plain language of the statute, the plaintiff does not have to establish application to serve or service in a uniformed service to be entitled to the protections of this law.

The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

38 U.S.C. § 4303.

USERRA provides that a court may award three kinds of relief: an injunction requiring an employer to comply with USERRA’s provisions; compensation for lost wages or benefits suffered by reason of the employer’s failure to comply with USERRA, and liquidated damages in an amount equal to lost wages or benefits if the employer’s failure to comply with USERRA was willful. 38 U.S.C. § 4323(A)-(C).

USERRA does not allow damages for mental anguish or emotional distress, nor does it allow recovery of punitive damages. *Dees v. Hyundai Motor Mfg. Ala., LLC*, 605 F. Supp. 2d 1220, 1229 (M.D. Ala. 2009), *aff’d* 368 F. App’x 49 (11th Cir. 2010) (per curiam).