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PRESS RELEASE

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Supreme Court takes on Reservist's Reemployment Rights Case; ROA to Brief

WASHINGTON – With the Supreme Court's announcement that it will accept its first ever case dealing with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the Reserve Officers Association's Servicemembers' Law Center will file an *amicus curiae* (friend of the court) brief with the Supreme Court in the case of *Staub v. Proctor Hospital*.

In *Staub v. Proctor Hospital*, Army Reserve Sergeant Vincent E. Staub claimed that Proctor Hospital violated USERRA when it fired him in April 2004. Staub won in the United States District Court for the Central District of Illinois, and the jury found that the firing was motivated, at least in part, by his military obligations. However, he lost on Proctor Hospital's appeal in the United States Court of Appeals for the 7th Circuit.

"We believe that the panel cherry-picked certain evidence that seemed to support the employer's arguments, rather than viewing the evidence as a whole, as the jury did and the law requires," said retired Navy Capt. Samuel Wright, Director of ROA's Servicemembers' Law Center.

ROA will file the *amicus curiae* because the circuit court's decision is contrary to the Supreme Court's commandment to construe the reemployment statute liberally for the benefit of those who have laid aside their civilian pursuits to serve their country in its hour of great need.

"ROA is pleased to see this important issue being taken up by the Supreme Court," said retired Rear Adm. Paul T. Kayye, ROA's president. "USERRA is a critical law for servicemembers, their families, and employers. It ensures America's Citizen Warriors are not adversely affected by their service, and employers have the legal support they need to employ our Reservists and Guardsmen."

Congress enacted USERRA in 1994 as a complete rewrite of the Veterans' Reemployment Rights Act (VRRA), which can be traced back to 1940. There have been 16 Supreme Court cases under the VRRA, the first in 1946 and the last in 1991.

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Like the VRRA, USERRA provides for the right to reemployment for a person who leaves a civilian job for voluntary or involuntary military service. A returning veteran who meets USERRA eligibility criteria is entitled to prompt reinstatement in the civilian job, even if that means displacing another employee. Moreover, the returning veteran must be treated, for seniority and pension purposes, as if he or she had remained continuously employed by the civilian employer during the time away from work for service.

ROA's Servicemembers' Law Center has been an invaluable resource for legal issues of importance to members of all branches and components of the U.S. military. The law center provides expertise on USERRA as well as the Servicemembers Civil Relief Act (SCRA) and military voting rights.

Capt. Wright is considered one of the foremost experts on USERRA. He was one of the primary writers of the law in his previous position as a U.S. Department of Labor attorney, and he has since written hundreds of articles on USERRA which can be accessed online at the ROA law center's Law Review Library.

The Reserve Officers Association is the 63,000-member professional association for all uniformed services of the United States. Chartered by Congress and in existence since 1922, ROA advises and educates the Congress, the President, and the American people on national security, with unique expertise on issues that affect the 1.5 million men and women now serving in America's Reserve Components.